



## The Outlease Program Guide



Office of Portfolio Management and Customer Engagement  
General Services Administration  
Public Buildings Service  
Second Edition  
August 2020

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# INTRODUCTION

## ***Outleases are Opportunities***

Outleasing is responsible asset management. Renting vacant or underutilized space temporarily not needed by the Federal community to the private sector improves Funds from Operations (FFO), an asset's revenue stream and decreases non-revenue-producing space. Outleasing is an interesting business discipline, touching nearly every business line in the Public Buildings Service (PBS) and yet is more in alignment with private sector real estate development than with GSA core real estate activities. Outleasing has grown far beyond the days when it was just about finding private sector tenants for vacant or underutilized space in Government-owned or -leased space. Outleasing is, of course, still concerned with filling vacant Government-owned or -leased office space if no Federal tenants are available, but today it is also about food courts and farmers markets, rooftop antennas, solar panels, special events, and movie shoots.

GSA was granted authority to outlease vacant and underutilized space in buildings under GSA's jurisdiction, custody or control in the Federal Property and Administrative Services Act of 1949. The oldest locatable guide on outleasing is the 1985 GSA Handbook, Outlease Program Policy and Procedures. Characteristic of the handbooks of that time, the handbook was prescriptive, identifying all aspects of the transaction and how each step was to be performed. Over the next decade, the handbook was updated several times and ultimately suspended in 1996 when the Centers of Expertise were created. The Retail Center of Expertise issued the Retail Tenant Guide containing outlease guidance in 2000. Since that time, outleasing has grown beyond vacant and underutilized office space to include special events (e.g., movie shoots) historic buildings, rooftop commercial antennas, food courts, parking garages, ground sites, and green technologies, such as solar farms.<sup>1</sup>

Now outleasing is regarded as a valuable asset management tool, maximizing an asset's revenue generation, helping to maintain a healthy revenue stream for that asset during times when the Federal community population is in flux or keeping a revenue stream for an asset that is being transitioned for sale. Outleasing crosses several business lines and multiple disciplines, requiring high levels of collaboration across GSA.

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<sup>1</sup>For the complete list of authorities, please see the Outlease Authorities section.

## What Outleasing is—and isn't

Outleasing is:

- Responsible Asset Management
- Temporarily disposing of vacant, underutilized or excess Government-owned or leased space by leasing to state or local government entities or to the private sector
- Providing funds to repair and maintain those assets listed in the National Register of Historic Places
- Enhancing FFO
- Improving the Vacant Space Measure
- Outleases are subject to statutory authorities and GSA policies, which have requirements regarding competition, rate setting and lease terms. In addition to the policy guidance set forth in this Guide, chapter 5 of the *GSA Delegations of Authority Manual*, GSA Order PBS 5450.1 (March 4, 2015), as amended, includes additional limitations on outleasing authority, including warrant requirements and lease term restrictions.

Outleasing is not:

- Acquiring space
- Marketing to Federal agencies
- Subject to the Competition In Contracting Act (CICA)
- Subject to the Federal Acquisition Regulation (FAR) or the General Services Administration Acquisition Regulation (GSAR)
- Subject to GSA PBS Pricing Policy (Pricing Desk Guide, 4<sup>th</sup> Edition), as such policy may be revised from time to time
- Subject to Rent Bill Management (RBM)<sup>2</sup>

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<sup>2</sup> Occupancy Agreements for Outleases are used to meet Pegasys' Billing and Accounts Receivable (BAAR) and Real Estate Across the United States (REXUS) data entry requirements, not for the purpose of setting rates in accordance with Pricing Policy or documenting the Occupancy Agreement with a Federal agency.

## WHAT IS INCLUDED IN THIS GUIDE?

In this document, you will find information on all areas of outleasing as it is practiced today. There is a section covering every area of outleasing, as well as a glossary and a list of all authorities pertinent to outleasing. There is also a reference section containing links to the forms.

# OUTLEASE PROCESS OVERVIEW

This section provides an overview of the outleasing process. Subsequent sections provide more detailed information on individual categories of outleasing, e.g., outleasing Government-leased space, marketing, retail, and special events, and procedures for each. For a handy resource, also see the [Outlease Checklist](#).

It is important to note that because outleasing does not provide goods or services to Federal agencies or require the obligation of appropriated funds, outleasing is not subject to CICA, the FAR or the GSAR. In addition, in some instances, the outleasing authority includes an express exemption from some or all of these other regulatory and statutory requirements. However, the outleasing process is not free from all rules. Outleasing is subject to both statutory authorities and GSA policies. This means that competition should be promoted to the maximum extent possible, rental rates should be based on the prevailing commercial rate for comparable space devoted to a similar purpose in the vicinity of the public building and lease terms should not limit portfolio flexibility. As always, it is the responsibility of the Contracting Officer (CO) to obtain the best deal in the interest of the Federal Government.

## ***Process Overview***

1. Outlease Initiation: The initiating action is usually notification that space is available for outlease from the Asset Manager or Facility Manager to the staff person with outleasing responsibilities for the asset.
2. Assemble a Project Team. In addition to the CO and the Contracting Officer's Representative (COR), possible members include: the Facility Manager, the Asset Manager, the Realty Specialist, and the Financial or Budget Analyst.
  - a. If the asset is historic, include the Regional Historic Preservation Officer (RHPO).
  - b. If there may be environmental concerns, include the Regional National Environmental Policy Act (NEPA) representative.
3. Determine which contracting document is appropriate. Briefly:
  - a. A lease agreement must be used for long-term complex outleases, and transfers a leasehold interest to the lessee. Leases must be signed by a Warranted Contracting Officer (WCO).
  - b. A license does not transfer an interest in the property to the licensee and is revocable by the Government. Under a license, the owner gives the licensee permission to use the property for a specific purpose for a specific period of time. The time period for a license is generally shorter than for a lease, although the license has been used, for example, for long-term antenna agreements when GSA did not want to transfer a leasehold interest. Outlease licenses, due to the complexity inherent in most outlease actions, must be signed by a WCO to minimize risk to the Government.
4. Select the legal authority under which to conduct the action:



- a. There are several authorities under which outlease activities can be conducted, starting with 40 U.S.C. § 543. (See subsequent chapters and the Authorities page in the Appendix.)
  - b. If you choose to use 40 U.S.C. § 543 as your outlease authority, you must submit an SF-118 Report of Excess Property. In the comment area of SF-118, note the action is a temporary disposition and available, but not suitable, for McKinney- Vento Act uses.
  - c. Consult the [GSA Delegations of Authority Manual](#) to understand outlease warrant requirements and term restrictions.
5. Develop a marketing and advertising strategy:
  - a. Advertising for all outlease opportunities is considered a programmatic requirement. All efforts to advertise outlease opportunities should be documented in the contract file.
  - b. Advertising Suggestions
    - i. Free and for-fee online advertising sources;
    - ii. Newspapers and flyers;
    - iii. Broker community contacts; and
    - iv. Chambers of Commerce and similar organizations.
  - c. Brokers
    - i. Private sector brokers and
    - ii. Office of Real Property Utilization and Disposal's Broker Services Contract.
6. Establish a rental rate based on the local market. The following are resources available to help you develop a market-based rate:
  - a. The [2010 memorandum](#) on developing outlease rent rates;
  - b. Talk with local brokers and private sector building developers with whom you have worked in the past;
  - c. Published market research from companies like Co-Star and CBRE; and
  - d. Consult a regional appraiser or the National Office of Leasing.
7. Solicit competitive bids from all interested parties.
8. Conduct due diligence (e.g., financial capability and compatibility with federal occupant agencies) and negotiate with all interested parties.
9. Discuss security deposit requirements.
10. Request proof of liability insurance at the level suitable for the activity.
11. First month's rent in advance is required for all outleases, except for short-term actions of less than one billing cycle.
12. Discuss Rent Payment method.
  - a. Preferred payment method is online through the U.S. Treasury website, Pay.gov.
  - b. If payment must be made by check, checks must include the outlease contract number and the month for which payment is to be credited. Provide tenants the following mailing address for checks: General Services Administration (GSA), P.O. Box 6200-28, Portland, OR 97228-6200 **Overnight Address:** U.S. Bank,

Attn: Government Lockbox– General Services Administration (GSA) #6200-28,  
17650 NE Sandy Blvd. Portland, OR 97230

13. The Contract Effective Date is the date of occupancy. However, billing in Pegasys' Billing and Accounts Receivable (BAAR) system always takes place on the first of the month. Inform the outlease client of the significance of the Contract Effective Date versus the Billing Date and include this information in the award letter.
14. Award lease or license based on best deal for Government
15. Input financial and space data into the GSA Office of the Chief Financial Officer (OCFO) and PBS databases (see the section on entering outlease data into GSA databases for detailed instructions).

#### Contract Administration

- Follow contract file management practices prescribed by GSA contracting and acquisition procedures. (See Contract Administration chapter)
- Monitor the Outlease Inventory, Delinquency, and Historic Buildings Reports.
- The Outlease Inventory Report is issued monthly. Review for accuracy. If the information is in error, check that the report information mirrors the Final OA<sup>3</sup> and original contract. Updating errors in the OA will update the BAAR system and be reflected in the next month's report. If the error in the report is something other than an OA entry error, email USDA Finance at [FW-OutleaseDocument.Finance@gsa.gov](mailto:FW-OutleaseDocument.Finance@gsa.gov).
- The Delinquency Report is issued monthly and shows only those outleases that are behind in their payments (delinquent) and whether the account is disputed. Review past due accounts to make certain the account is truly past due or perhaps is being reported past due because data entry is late or account information (such as a change in the contract) has not been updated and made final in OA Tool.
- The Historical Building Report is issued monthly. The report shows the outlease cash collected during the accounting period. Review your region's list to confirm the report captures all outlease actions for the month. The report is also used to track outlease revenue deposited into BA-64 for the BA-64 Awards Program.

Note: This is a *generic* process summary; antenna, sites and special events outleases have process differences inherent to their specific transactions.

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<sup>3</sup> Partial month outleases have artificially extended contract dates to accommodate OA Tool and BAAR billing requirements; therefore, contract dates will not match the OA. See "Entering Outlease Data into PBS Information Systems" for details.

# OUTLEASING IN GOVERNMENT-OWNED SPACE

What is it?

Vacant or underutilized space in a Federal building not required for use by a Federal agency in the near term that is leased to the private sector or state or local government entity.

Why outlease owned space?

- Reduces vacant space measure
- Enhances FFO
- Increases BA-61 funds or BA-64 funds (if the outlease is in a historic building).

Can Government-owned space that is outleased be sublet?

The subleasing of Government-owned space that is outleased to a private sector tenant is generally discouraged, but is permissible. Subleasing of Government-owned outleased space should be entered into carefully, as there are potential security and liability risks. Consult with regional counsel to make certain that the Government's interests are protected. USDA Finance does not have the ability to allow for split rent on one contract number in Pegasys, so special rent payment arrangements must be coordinated with the tenants and USDA Finance. The terms of the master lease cannot be changed. The sublease cannot exceed the length of the master lease.

Can Government-owned building sites be outleased?

A proposed building site, including improvements, may be outleased until the property is needed for construction purposes. Proceeds may be deposited in the Federal Buildings Fund (FBF).

Utilities

Utility use during normal business hours may be included in the rent payment; however, the amount of rent payment and utility payment must be separately stated in the terms and conditions of the lease or license. Excessive or after-hours and weekends utility use must be paid using a C- or D- type reimbursable work authorization (RWA)<sup>4</sup>. Estimated utility expense can be obtained from the Facility Manager.

What Authority to Use?<sup>5</sup>

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<sup>4</sup> See Outlease and RWA chapter for RWA guidance.

<sup>5</sup> List of all authorities cited is found in the Appendix.

- 40 U.S.C. § 543 for surplus property.
- 40 U.S.C. § 581(h) for Public Buildings Cooperative Use Act activities.
  - Restricted to first floor, courtyard or areas with major pedestrian access, or rooftop, and to the four categories of uses outlined in the statute.<sup>6</sup>
  - Section 111 of the National Historic Preservation Act of 1966, as amended, 54 U.S.C. §§ 306121 and 306122 (Section 111), for historic property.
- Section 412 of GSA General Provisions, Consolidated Appropriations Act, 2005, P.L. 108-447, 118 Stat. 2809, 3259 (Dec. 8, 2004), for outleases that don't fit under a more specific section.
- 40 U.S.C. § 581(d) for outleasing Federal building sites until needed for construction purposes.

#### What Forms?<sup>7</sup>

- Report of Excess (SF-118), if using 40 U.S.C. § 543 as the legal authority.
- Lease form (GSA 3486) modified to cite the authority appropriate for the outlease activity and using appropriate terms and conditions.
- Revocable License form (GSA 1582) modified to cite the authority appropriate for the outlease activity and using appropriate terms and conditions.
- Outlease OA.
- Vendor Code Request Form.

#### What GSA Applications Require Data Input?<sup>8</sup>

- Pegasys for Vendor Code Request and creation of financial account in the BAAR system.
- OA Tool to create Occupancy Agreement (OA) to upload outlease contract financial information into BAAR.
- REXUS to generate the outlease contract number and assign the space.
- eSMART to obtain space drawings.
- CFR in those regions requiring a square foot certification.
- GREX to scan and upload signature documents and supporting contract files (any document normally required in a contract administration file).

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<sup>6</sup> See The Four Categories of the Public Buildings Cooperative Use Act.

<sup>7</sup> Links to all forms can be found in the Appendix.

<sup>8</sup> See Entering New Outlease Financial Information into GSA Systems for detailed data entry procedures.

# OUTLEASING IN GOVERNMENT-LEASED SPACE

What is it?

Space leased from the private sector for Federal agency use that is no longer needed by the original Federal tenant and for which there are no other Federal agencies that can backfill the leased space.

Why outlease Government-leased space?

- GSA's occupant agency turns back space or vacates completely and there are no other Federal agencies that can backfill the space.
- The lessor will not take back the space or agree to a buy-out.
- Subleasing in Government-leased space to a non-federal tenant is permitted, provided the Government has the right to do so in the underlying lease. Most lease contracts contain this right.
- Reduces or eliminates master lease base rent cost to the Government.
- Reduces the vacant space measure.

NOTE: If a partial vacancy, the space to be sublet must be subdivided and isolated from the remaining Federal tenants. Private sector outlease clients and Federal agency staff cannot commingle.

Can an outlease tenant in Government-leased space in turn sublet?

A private sector tenant that has leased space from the Government may, in turn, sublet all or a portion of the space to another entity for the remainder of the Government's lease term, but any such sublease must be entered into carefully, as there are potential security and liability risks. As with subleasing outleased Government-owned space, consult with regional counsel to make certain that the Government's interests are protected, and coordinate rent payments with USDA Finance. Again, the terms of the master lease cannot be changed or exceeded.

What authority to use?

40 U.S.C. § 585(b). This provision permits subleasing the unexpired portion of a lease of space if the unexpired portion is determined to be surplus to the Government's needs. Proceeds are retained in the FBF to offset base lease costs.<sup>9</sup>

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<sup>9</sup> Authority cited may be found in the Outlease Authorities section.

## Critical Points

- Terms must align with the master lease. Occupancy term *may* be shorter, **never** longer than master lease. The outlease rent rate *may* be more than master lease rate **if** market appraisal supports or it *may* be less **if** the CO determines the lower rate to be in the best interest of the Government.
- Proceeds from subleased Government-leased space are retained in the FBF to offset base lease costs.
- Government leases are entered into pursuant to 40 U.S.C. § 585(b) and submission of an SF-118 Report of Excess to the Office of Real Property Disposal and Utilization is required.
  - NOTE: In the Remarks area of the form, enter: "The action is for a sublease of Government-Leased space and, therefore, not suitable for McKinney-Vento Act screening."

## What Form?

- SF-118 Report of Excess.
- GSA 3486 Lease of Real Property.
  - Terms may **not** exceed the terms in the master lease.
- Outlease OA.
- Vendor Code Request form.

## What GSA Applications Require Data Input?<sup>10</sup>

- Pegasys for Vendor Code Request and to create financial account in the BAAR system.
- OA Tool to create Occupancy Agreement to upload outlease contract financial information into BAAR.
- eSMART to obtain space drawings.
- CFR in those regions requiring a square foot certification.
- REXUS to generate the outlease contract number and assign the space.
- GREX to scan and upload signature documents and supporting contract files (any document normally required in a contract administration file).

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<sup>10</sup>See Entering New Outlease Financial Information into GSA Systems for detailed data entry procedures.

# HISTORIC BUILDINGS

The National Historic Preservation Act of 1966, as amended (NHPA), directed Federal agencies to preserve historic buildings and use historic properties to the maximum extent feasible before acquiring, constructing or leasing property to house Federal functions. Section 111 gave Federal agencies broad authority to lease historic properties to keep underutilized historic buildings occupied and financially viable. Section 111 allows Federal agencies to outlease any underutilized historic property under the jurisdiction, custody and control of the agency, including portions of historic properties. To use Section 111:

- The property must be listed in, or eligible for listing in, the National Register of Historic Places;
- A determination that the property, or portion of the property, to be outleased is not needed for current or projected agency needs;
- The RHPO must certify the proposed outlease satisfies the requirements of section 106 of the NHPA (54 U.S.C. § 306108)(Section 106); and
- The lease must include language requiring the preservation of the historic property.

Always include the RHPO as part of the project team when preparing to outlease in a historic building. Any outlease action proposed in a historic building should be submitted to the RHPO, who will carry out the Section 106 compliance consultation process, as needed. The RHPO will guide the project team in determining whether or not the proposed outlease action will have an adverse effect on the historic nature of the property.

The proceeds generated by Section 111 outleases are deposited in the historic property outlease budget activity account (BA-64) in the FBF, and may be used by GSA to defray the costs of administration, repair and related operating expenses incurred by GSA for the outleased property or any other GSA-controlled property listed in the National Register of Historic Places. To earn revenue under Section 111, the property must be listed in, or eligible to be listed in, the National Register of Historic Places. Outlease revenue earned under Section 111 must be obligated within two years and may only be used for the benefit of the historic property that generated the proceeds or any other property under GSA's jurisdiction, custody and control that is listed in the National Register of Historic Places. The administration of BA-64 funds is overseen by the Office of the Chief Architect, Center for Historic Buildings, in consultation with the Outlease Program, through the annual BA-64 review process.

Types of outleases appropriate for historic buildings include use of the building, or portions of the building, during non-business hours for television and movie filming. State, local, educational, and nonprofit tenants that might supplement or complement the Federal tenants and other traditional commercial tenancies are also permitted. Special event outleases can be held during business hours if the event can occur without interfering with the normal business activities of the building tenants. Above all, an outlease must not interfere with the preservation of the historic property in any manner.

Commercial activities normally conducted under 40 U.S.C. § 581(h) in historic buildings should be conducted under Section 111. Examples of commercial activities appropriate for historic buildings include rooftop antennas, restaurants, food stores, fine art exhibits, libraries, and temporary use of meeting rooms.

## Lease Term Considerations

When planning to outlease in a historic building under Section 111, the following apply:

- If use is a commercial activity, the outlease rate is based upon the prevailing commercial rate for comparable activity devoted to a similar purpose in the general location of the building. (See also section on Outlease Rate Development)
- If use is occasional, non-commercial activities, the rental rate can be set at a level deemed appropriate by the Administrator, or his or her designee, as long as said rate does not result in a financial loss to GSA. It is GSA policy to recoup all costs incurred by GSA over and above those incurred during normal mission use of the property.
- The cost of non-recurring GSA services provided in support of the outlease must be paid through a D-type RWA or, in the case of Federal Protective Service (FPS) security services, a security work authorization (SWA) coordinated through the Office of Mission Assurance liaison.<sup>11</sup>
- The proposed outlease must comply with Section 106, reflect the terms of applicable Section 106 agreements and be coordinated with the RHPO. An email from the RHPO stating the lease has no adverse effect must be obtained and kept in the lease contract administration file. (See [National Historic Preservation Act](#))
- Any alterations or refurbishments performed as part of the outlease agreement must comply with the recommended approaches set forth in the [Secretary of the Interior's Standards for the Treatment of Historic Properties](#) (Secretary's Standards) and be approved by the RHPO.
- The term must be for a specific duration and be based upon the period for which it has been determined there is no current or projected Federal need.
- The proposed outlease must identify the authority for the lease and must be approved by regional counsel.
- The proposed outlease must not be disruptive to building operations.
- For rooftop antennas, the antenna outlease template must be used and the agreement must comply with all [GSA Historic Preservation Guidelines for rooftop antennas](#).
- All outlease actions in buildings in, or eligible for listing in, the National Register of Historic Places must cite Section 111 as the legal authority in the lease or license agreement and must use the Revenue Source Code 4406 when creating the OA in OA Tool.

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<sup>11</sup> See Utilities section in Outleasing in Government-Owned Space for additional guidance on utilities.



## What Form?

- GSA 3486 Lease of Real Property.
- Revocable License form (GSA 1582) modified to cite the authority appropriate for the outlease activity and using appropriate terms and conditions.
- Outlease OA.
- Vendor Code Request form.

## What GSA Applications Require Data Input?<sup>12</sup>

- Pegasys for Vendor Code Request and to create financial account in the BAAR system.
- OA Tool to create OA to upload outlease contract financial information into BAAR.
- eSMART to obtain space drawings.
- CFR in those regions requiring a square foot certification.
- REXUS to generate the outlease contract number and assign the space.
- GREX to scan and upload signature documents and supporting contract files (any document normally required in a contract administration file).

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<sup>12</sup> See Entering New Outlease Financial Information into GSA Systems for detailed data entry procedures.

# THE FOUR CATEGORIES OF THE PUBLIC BUILDINGS COOPERATIVE USE ACT

**Overview** - Under the authority of 40 U.S.C. § 581(h) (formerly known as the Public Buildings Cooperative Use Act), public uses for four categories - educational, commercial, recreational, and cultural - are allowed at Federal buildings, either through a permit or license for short-term or occasional use or by a lease for long-term use. The statute restricts activities to certain areas of a building, specifically, a major pedestrian access level, courtyard, rooftop, auditorium, meeting room, or lobby. Publicly accessible retail and restaurant facilities at Federal buildings help to create economic and social vitality by turning courthouses and office buildings into lively mixed-use development anchors.

Simple, one-time, no-fee public use events are handled by the Facility Manager by means of a permit; however, the Outlease Program frequently partners with the Urban Development and Good Neighbor Programs to facilitate more complex public use activities at GSA buildings. Unique cultural, educational and recreational events increase downtown appeal for tourists and residents, while recurring events, such as farmers markets and musical concert series, become important neighborhood traditions, while also generating revenue for the local economy.

## COMMERCIAL, CULTURAL, EDUCATIONAL, AND RECREATIONAL CATEGORY EXAMPLES

Under the four categories outlined in 40 U.S.C. § 581(h), the table (*below*) shows examples of the types of successful activities held in Federal buildings in the past for which a permit, license or lease contract is required.

Conference Centers	Full-service/fast food Restaurants and Food Courts	Retail Dry Goods, Clothing and Sundries Stores	Financial Institutions and ATMS
Child Care Centers	Surface and decked parking	Lectures and Exhibits	Farmers Markets
	Filming and Photo Shoots	Music Concerts Dance Performance	

The following public activities are not permitted in Federal buildings:

- Solicitation by for-profit entities
- Partisan political activities
- Events deemed to be obscene
- Activities destructive to Federal property
- Any activity that interferes with the business of the Federal tenants or another public use.

## URBAN DEVELOPMENT AND GOOD NEIGHBOR PROGRAMS

Some of the public non-commercial activities discussed above are conducted under the auspices of the Urban Development and Good Neighbor Program and can benefit from input of that staff. There is a designated Urban Development and Good Neighbor Program liaison in each region. Absent a regional liaison, contact the Urban Development and Good Neighbor Program Office in the Office of the Chief Architect in Central Office to collaborate on these activities.

## RESTAURANTS

Outleasing to restaurants has both risk and reward. Nine out of 10 retail leases are food-related, which means there is a large pool of possible tenants, and restaurants in GSA buildings provide an amenity much desired by Federal tenants. On the other hand, the restaurant industry has a 60% mortality rate according to Businessweek (Miller, 2007), which is on par with the cross-industry average for new businesses, but higher turnover than generally experienced by the GSA asset manager. There are also operational challenges associated with restaurants, but these challenges can be managed as shown by the many restaurant outleases in the inventory.

### WHAT FOOD SERVICE TO OFFER?

The Randolph-Sheppard Act, the facility's tenant mix and size and security level of the building dictates whether to offer vending machines, contract with a food vendor to provide food service (e.g., a café or cafeteria solely for building tenants) or an outlease to a retail restaurant. Market and feasibility studies should be used to determine suitability as a concession operation or as an outlease. Always consult with the Concessions Program to ascertain any impact on existing Randolph-Sheppard Act vendors or if the size and type of service is such that it should be offered to the Randolph-Sheppard Act State Licensing Agency.

If the building's security designation or occupant agencies prohibit public accessibility, a retail outlease is not possible, no matter the suitability of the space.

### Other Considerations

- Consider the surrounding population. A retail restaurant will need a customer base larger than just the building occupants to be economically viable. How much competition exists and how large is the possible customer base?

- A large customer base is also required to realize market rates for the location.
- Restaurants fall in and out of fashion; consider carefully and choose traditional over trendy.
- Is there sufficient funding available to support the marketing of space for a retail restaurant outlease?

#### SUGGESTED PROJECT TEAM

- CO
- COR
- Facility Manager or his or her representative
- Design and Construction representative
- Asset Manager
- Regional Appraiser
- Concessions Program representative
- Occupant Agency representative or Facility Security Council representative, or both
- Regional Historic Preservation Officer, if building is historic.

In addition, it is recommended that a Concessions Program representative participate in the early planning meetings to take advantage of his or her retail food service expertise and to avoid any conflicts with the Concessions Program and the Randolph-Sheppard Act.

#### TYPICAL CONTRACT ISSUES TO CONSIDER

- Utilities
  - Separately metered
  - Sub-metered
  - Proportionately shared
- Space Delivery
  - Commencement
  - Rent billing
  - Lessor work
- Build-out
  - Extent
    - Finishes
    - Equipment
    - Infrastructure
    - Structural
  - Schedule
  - Insurance and bonding
    - See Miller Act in Appendix
- Potential problems to consider
  - Maintenance issues, abandoned property and hours of operation

### **Authorities<sup>13</sup>**

- 40 U.S.C. § 581(h)
- Section 412 of GSA General Provisions, Consolidated Appropriations Act, 2005, P.L. 108-447, 118 Stat. 2809, 3259 (Dec. 8, 2004). NOTE: use this authority for commercial activities only in those rare occasions the activity can be conducted appropriately in a space that is not a major pedestrian access area.

### **Forms<sup>14</sup>**

- Lease form (GSA 3486) modified to cite the authority appropriate for the outlease activity and using appropriate terms and conditions.
- Revocable License form (GSA 1582) modified to cite the authority appropriate for the outlease activity and using appropriate terms and conditions.
- Vendor Code Request form.
- Outlease OA.

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<sup>13</sup>See the Outlease Authorities section.

<sup>14</sup>See the Forms section.

## COMMERCIAL FILMING AND PHOTOGRAPHY

Issuance of a license by a warranted outleasing CO for all film and photography shoots and related activities conducted on and within GSA-controlled property is preferred. Use of a license overseen by a CO provides GSA a higher level of real estate protection, as well as oversight and control of the lessee's access to and use of the premises.

This does not include any media activities that are for publication for press relations when coordinated by a regional public affairs officer or public affairs officer of an occupant agency.

### PRE-PRODUCTION SCOUTING

It is important to schedule a meeting with the regional outleasing and building management staff and the region's Office of Mission Assurance liaison to make arrangements for such scouting activities prior to scouting visits to facilitate coordination so that the visit is conducted in a smooth and professional business manner for all concerned.

### REQUIRED DOCUMENTATION REVIEWS AND APPROVALS FROM PBS

If, after conducting scouting-related activities, it is determined that a filming or photography project or production will be pursued, the scouting applicant must submit all documentation required by the CO and resolve all production issues to obtain GSA approval.

In addition to reviewing the documentation, prior to completing the approvals necessary for the license, the CO and outleasing staff must review and issue determinations concerning the following types of issues:

- Structural conditions, historic status issues, equipment specifics, weight, load, and other similar considerations.
- The use of smoke, pyrotechnics, firearms, weapons, animals, and other special effects or unusual scenes, which will be subject to all applicable laws, rules and other Governmental policies regarding such activities.
- If appropriate, an applicant may be required to attend a security meeting with GSA staff, depending on the nature and location of the activity to be undertaken.
- Determinations about all GSA staffing matters, including decisions regarding the scope, type, number, or level of staff required, will be made by outleasing staff in consultation with the Facilities Management staff.

The following addresses documents and procedures:

1. Completed License, signed by the applicant, including accurate and updated information concerning an applicant's forwarding postal address, EIN, Vendor Code (if previously issued), and, if available, an email address, telephone

number and facsimile number for purposes of receiving reimbursement notification from PBS.

2. The Outleasing staff reviews the documentation and attempts to accommodate particular technical needs and any other special circumstances that may be presented by the applicant, including approvals from occupant agencies and other tenants, Federal law enforcement and building engineers or other personnel.
3. Once the Outleasing and Facility Management staff approve an application, they notify the CO to grant a license. If an application is not approved, the applicant will be notified as to the reason(s) and provided with the appropriate regional contact for appeal.

#### APPLICATION FOR LICENSE FROM A WARRANTED CO

A license will be issued only after the requisite documentation has been completed by the applicant and reviewed by the CO, production issues have been resolved with the Facility Managers Office and Federal law enforcement and Outleasing staff approval has been received.

All costs for building operations in addition to the normal services provided for the space that will be used, including staff time, contractor support and cleaning, must be paid by the licensee by check, money order or Pay.gov in accordance with National RWA policy.

All costs for security services must be paid by the licensee in accordance with regional instructions.

A fee should be imposed for each instance in which prepping or rigging begins, is followed by shooting or photography for such production, and then is concluded by wrapping, de-rigging and related activities. Regions must establish a method for charging fees, either based on appraisal or market conditions.

The CO must determine the appropriate authority to cite in the license, which will determine the account into which the fee should be deposited. If a historic structure, the CO should use Section 111 of the National Historic Preservation Act. Funds from licenses issued under Section 111 are deposited into BA-64.

#### INDEMNIFICATION AND INSURANCE REQUIREMENTS

Prior to the start of prepping or rigging for film or photography shoots on or within properties under the jurisdiction of GSA, to obtain the license, the licensee must provide to the CO a copy of the required insurance documentation.

The licensee must maintain, during the entire course of its operations, a liability insurance policy with a limit of not less than \$1,000,000 per occurrence. The policy must name the United States, acting by and through the Administrator of General Services and authorized representatives, as an additional insured with coverage. The original certificate of insurance

with a copy of the required endorsement attached must be provided to the CO. For currently enrolled film students, proof of insurance obtained through their school and proof of the student's current attendance will satisfy this requirement.

If it is determined that certain filming activity may increase the potential for injury to individuals or damage to property, or both, and that the minimum limit of insurance should be higher than \$1,000,000 per occurrence, the CO will determine how much of an increase is required and the licensee will be advised of such higher limit. Factors to be considered include the number of people involved, the location of the activity and the nature of the activity. The licensee must thereafter provide proof of such insurance in accordance with this section. The increase in the amount of required insurance may be appealed by written request to the CO, who will provide a written explanation of his or her decision.

## PRODUCTION REQUIREMENTS

Holding is a filming industry term whereby the studio only needs to use space to hold the actors, extras, catering, and other related production services, and no filming takes place. GSA can make available space for the studios for this sort of request, in accordance with all other normal procedures, but should use a license to do so.

GSA will coordinate with DHS FPS personnel in accordance with regional procedures to protect Federal property under its jurisdiction during production activities. The licensee must reimburse GSA for security costs.

All individuals affiliated with the licensee and the production may be required to present a valid, government-issued photo identification to receive security clearance to have access to properties and facilities under the jurisdiction of GSA where the production and related activities are taking place.

All individuals affiliated with the licensee and the production must wear a laminated identification card. The identification cards must be similar in form and include the name of the production.

Failure to display such identification cards at all times may lead to ejection from the properties and facilities.

All production equipment and props brought to properties and facilities under the jurisdiction of GSA are subject to inspection at any time prior to or during the production.

## POST-PRODUCTION REQUIREMENTS

The licensee is responsible to clean and restore the properties and facilities to the same condition at the time of the execution of the license after the rigging, shooting and holding is completed. If the licensee fails to clean and restore such properties and facilities following the rigging, shooting and holding, the cost incurred by GSA to restore the property and facilities will be borne by the licensee.



At the conclusion of all film and photography shoots, the licensee must reimburse GSA for all production-related costs, including GSA personnel or contractor costs and reimbursement for any property or facility damage.

If the licensee cancels any of its production-related activities 24 hours or less prior to the scheduled commencement, the licensee may be financially responsible for all costs for GSA personnel or contractors assigned to staff the production.

Suggested Project Team, Typical Special Event Issues, Authorities, and Forms are listed at the end of the Other Special Event section, below.

## **OTHER SPECIAL EVENTS: MEETINGS, CONFERENCES AND PARTIES**

Special events enliven our Federal buildings and invite the public to enjoy our beautiful interiors or, in the case of our plazas, the lovely landscaping and exterior vistas. There are things to consider before entering into outlease negotiations.

First, be certain the activity is permissible in a Federal building.

The following public activities are not permitted in Federal buildings:

- Solicitation by for-profit entities
- Partisan political activities
- Events deemed to be obscene
- Activities destructive to Federal property
- Any activity that interferes with the mission of the Federal occupant agencies or another permitted public use.

### **Other Considerations**

The size of the space available for outlease determines, to a certain extent, what and whether a special event can be held. For example, a special event requiring sit down meal service will require easily accessible commercial kitchen space or next to the building parking for catering vans, in addition to a space that can accommodate tables and chairs and electrical hook-ups.

The occupant agency mix and security level of the building may restrict the ability to outlease space for special events. If the building's security designation or occupant agencies prohibit public accessibility in or outside the facility, a special event outlease is not possible, no matter the suitability of the space.

## **SUGGESTED PROJECT TEAM**

- CO and COR
- Facility Manager or his or her representative
- Asset Manager
- Occupant agency representative or Building Security Council representative, or both
- Regional Historic Preservation Officer (if event is in a historic building).

## TYPICAL SPECIAL EVENT ISSUES

Any costs GSA may incur connected with the event must be recouped through C- and D-Type RWAs.

- Utilities
  - After-hours and weekend utility services
- Janitorial Services
  - If janitorial services are not included in the contract, but the space is not returned to the condition prior to commencement of the event, GSA must charge the organizer(s) for janitorial service costs incurred
- Security – GSA Office of Mission Assurance liaison

The use fee may be paid by check or by pay.gov; the preferred payment method for RWAs is by check; however, payment by pay.gov is an option. In both cases, RWA payment must be made prior to the day of the event, but in no event later than the day of the event. Follow Outlease lease or license procedures for implementing outleases in Government-owned space.

## ALCOHOL

All persons entering in or on Federal property are prohibited from being under the influence or using alcoholic beverages. Should a special event wish to serve alcohol, a special exemption must be granted by the Regional Commissioner or by another regional official with delegated authority. The exemption must be in writing and copies of the authorization must be provided to the Facility Manager and to the Federal Protective Service or other appropriate official responsible for the security of the building.

### ***Authorities<sup>15</sup>***

- 40 U.S.C. § 581(h)
- Section 111 of the National Historic Preservation Act, if the building is listed in, or eligible for listing in, the National Register of Historic Places.

### ***Forms***

- Vendor Code Request form (first outlease action with a company only).
- Outlease OA.
- Lease form (GSA 3486) modified to cite the authority appropriate for the outlease activity and using appropriate terms and conditions.
- Revocable License form (GSA 1582) modified to cite the authority appropriate for the outlease activity and using appropriate terms and conditions.

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<sup>15</sup>See the Outlease Authorities section.

# ANTENNAS

Outleasing rooftop space and land for commercial antennas is an important part of the Outlease Program. The following section covers telecommunication devices, including satellite/microwave dishes; whip antennas, TV/radio receivers, and other telecommunication devices. This part of the outleasing program must be closely monitored. Location and installation is a coordinated effort among the realty specialist, the CO and the Facility Managers.

The Presidential Memorandum, "Facilitating Access to Federal Property for the Siting of Mobile Services," signed August 10, 1995, directed that Federal properties be made available for use by private telecommunication companies. The passage of the [Telecommunications Act of 1996](#) (47 U.S.C. § 332) further underscored the Federal Government's role in facilitating broader deployment of telecommunications across the Nation. However, some Federal facilities have restricted access based on security concerns; for example, in many parts of the country, the Federal courts will not allow private sector telecommunication devices on their rooftops. GSA respects the security concerns of its customer agencies. Nevertheless, GSA has in its inventory many Federal facilities that accommodate outleasing rooftop space, grounds or parking areas for a non-federal telecommunications provider.

## THE PROCESS

The process starts with a phone call or email from a telecommunications carrier representative.

- CO/COR sends the Application for Transportation, Utility Systems, Telecommunications and Facilities on Federal Lands and Property (SF299) form to the carrier representative.<sup>16</sup>
- Initial project team: CO, COR, Facility Manager, Asset Manager, RHPO/REPO, Facility Engineer.
  - Initial Site Survey
    - Provide carrier with GSA RF Tech Guide<sup>17</sup>
  - Initial Project Sketch from carrier
  - Facility Manager, and the RHPO (if the asset is historic) and the NEPA regional contact (if there are environmental issues), approve the location of the antenna installation.
    - If the asset is historic, obtain RHPO email certifying Section 106 compliance.
- Contract negotiations begin; carrier develops Installation Plans
  - Plans received, submitted to Building Engineer and Fire and Life Safety
  - Approvals obtained, CO proceeds to lease/license execution
  - On-site pre-construction meeting with Facility Manager
  - Carrier installation build-out begins

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<sup>16</sup>See the SF299 in the Forms section.

<sup>17</sup>See GSA RF Guide in the Appendix.

- Inspections, access coordination and enforcement
- Final walk-through with Facility Manager
- Contract Administration
  - CO sends letter to tenant with signed agreement, payment information, Vendor and Customer Self Service (VCSS) system and Pay.gov information, and the USDA Finance “Know Your Rights as a Debtor” pamphlet.
  - Data entry into OA Tool and REXUS, contract and supporting documents uploaded into GREX
  - CO/COR and Finance monitor financial compliance
  - On-site monitoring of installation for lease/license compliance

#### ***Authorities***

- 40 U.S.C. § 581(h)
- Section 111 of NHPA (54 U.S.C. §§ 306121 and 306122), if the antenna installation is on historic property.

#### ***Forms***

- Application for Transportation, Utility Systems, Telecommunications and Facilities on Federal Lands and Property (SF299)
- Outlease OA.
- Lease form (GSA 3486) modified to cite the authority appropriate for the outlease activity and using appropriate terms and conditions.
- Revocable License form (GSA 1582) modified to cite the authority appropriate for the outlease activity and using appropriate terms and conditions.

#### ***Database inputs***

- OA Tool to enter Outlease OA data
- REXUS to request OA Finalization of RBM
- GREX to scan and upload signature documents and supporting contract files (any document normally required in a contract administration file).

#### ***Antenna Rate Development***

The industry expects to negotiate with GSA for antenna or satellite dish sites on Federal rooftops, grounds or parking areas. The CO/COR should use their expertise to negotiate a rate that is in the best interests of the Government. Outlease antenna pricing is market based; follow the general pricing guidelines in the 2009 memorandum clarifying rent rate development for outleasing (See Appendix). Five-year, firm-term contracts with three additional five-year renewal options are an industry standard.

In areas too remote to establish a market rate easily, work with your regional appraiser to determine a reasonable rate. Another resource for developing antenna rent rates for remote markets is the [antenna pricing index](#) of the Bureau of Land Management (BLM). The BLM

communications-site pricing is broken out by the type and style of the telecommunication device and can be used as a reference to help develop a market rate.

### ***FCC License and RFI Certification Requirements***

When considering an application from a telecommunications company, several items are required prior to any contractual agreement. The company must provide a copy of its current FCC license, which license must specify the expiration date. No outlease contract will be granted to a company with an expired FCC license.

Provide the company with GSA's RF Tech Guide<sup>18</sup> detailing the agency's technical requirements.

The company is required, at its own expense, to obtain written certification, commonly known as a Radio Frequency Interference (RFI) Certification Report, that its equipment and installation comply with radio frequency (RF) exposure regulations and requirements and the new installation will not interfere with existing antennas. The entire report and certificate must be provided to the CO or COR within two business days after the company receives the Certification Report. The RFI Certification Report is reviewed by the facility engineer.

### ***Additional Square Footage Charges and Height Restriction Enforcement***

GSA also charges for the square footage of ground or interior space of a facility required by the supporting electronics cabinetry. Specific language related to maintenance, required signage and camouflage to protect the premises is outlined in the basic outlease form for antenna outleasing. Cabinetry located within a Federal facility is subject to the rental rates established in REXUS (storage, mechanical, electrical closets, or penthouse). Rooftop space used to house the supporting electronics cabinet is subject to a negotiated rate and may be blended with the antenna rate.

Strictly enforce restrictions relating to height of antennas or monopoles. Check local zoning regulations for area height restrictions. Unsightly structures can be minimized with the use of camouflaged poles that are painted colors to blend with the existing locale. Strategies such as these minimize the likelihood of neighboring properties complaining about the unsightliness of antenna structures.

### ***Antenna Installation on Historic Building Rooftops***

Antenna installations on historic buildings must meet the Secretary's Standards. If the asset is listed in, or eligible for listing in, GSA's historic inventory, work with the RHPO and the wireless carrier to meet the historic preservation guidelines for antennas on historic buildings.

### ***Subleasing and Co-locating***

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<sup>18</sup> Available in Appendix.

Including in the contract the option of subleasing or collocating with other telecommunication providers on existing towers is allowed. In the case of a sublease, GSA review and approval is mandatory to confirm that the terms and conditions are consistent with the Master Lease and that the antenna installation complies with all applicable Federal, state and local laws and regulations. In the case of a carrier wishing to collocate on an existing outleased tower, GSA will execute a separate outlease with the carrier wanting to collocate.

### ***Change of ownership or bankruptcy***

The telecommunications industry is very volatile, with companies frequently being bought and sold. Be aware that sometimes when rent becomes delinquent for an antenna contract, the original tenant may have changed ownership without notifying GSA. Bankruptcies also occur in this industry. Although there is language in the antenna outlease requiring GSA to be notified of changes in ownership, vigilance is required.

If a company notifies GSA that a change in ownership has taken place, immediate action is required to obtain either a new contract with the new telecommunication company or an amendment (*i.e.*, novation) to change the ownership name on an existing contract, the latter being the usual circumstance since the contracts are multi-year. The original tenant must provide to GSA, in writing, the name change information and the effective date.

If notified of bankruptcy, immediately notify the Office of General Counsel and USDA Finance.

## **ANTENNA TOWERS LAND BASED**

Although antenna terminology is somewhat fluid, GSA uses the generally accepted term in U.S. broadcasting engineering, which defines a tower as an antenna structure attached to the ground. The process for outleasing an antenna tower is the same as for an antenna sited on a building, but consider the following elements:

### **GROUND, WAREYARD, PARKING LOT**

Determine the best location among the three possibilities; for both safety and aesthetic purposes, a minimum of 200-300 feet from an existing structure is preferred. If a parking lot is under consideration, the lot must be large enough to accommodate the structure without negatively impacting current parking needs. If an unimproved site is under consideration, check with the RPHO and NEPA regional contact to make certain there are no NHPA or NEPA issues associated with the site. If there are, a study will have to be undertaken to determine if the issues can be resolved or if the installation needs to be moved to a different site.

Check local zoning regulations for area height restrictions. Strictly enforce height restrictions.

- Full construction drawings and specifications are required for initial installation and any subsequent changes. No exceptions are allowed.
- Concrete pad is required to support the tower, unless area is paved. Height of the tower will dictate size of support pad, depth determined by the telecommunications company in compliance with industry standards.
- In addition to leasing the square footage for the tower, the lessee also must lease enough square footage to accommodate the installation of the electronics cabinets required to support the antenna; a minimum of 400 square feet (sf) is standard to support one to two cabinets. The lessee may opt to install a larger concrete pad to accommodate both the tower and the electronic support cabinets.
- Separate utility metering and separate telephone lines for the electronics cabinets are required.
- Fencing must be installed surrounding the concrete pad and cabinets and must be camouflaged. Use of colored taping through metal mesh fencing is preferred. Shrubbery is also an option, depending upon location. Installation and maintenance is always the responsibility of the lessee.
- “No Trespassing” signs are recommended.
- Signage advertising the lessee is not allowed.
- Pricing is market-based and negotiated. A basic site charge must be levied; additional charges should be added for:
  - Each antenna and satellite dish installed
  - Each panel
  - Each support cabinet
  - Extending the height of the tower
  - Extending the site of the ground pad (charge for additional square footage).

Any changes to the site must be coordinated with the Facility Manager. Carefully monitor the site, as telecommunication companies are known for adding antennas, panels and other equipment while telling the Facility Manager they are only going to do equipment maintenance or upgrade. Take photographs of the original installation and monitor at least quarterly for changes or additions to the site and supporting equipment. Notify the CO if any changes are made. Only the CO can approve and amend a contract for any changes in equipment or pricing. All proposed changes must be presented to the CO in writing.

## SITE RESTORATION

The contract expressly provides that, upon expiration or earlier termination, all telecommunication equipment and supporting equipment must be removed by the lessee. A final site inspection must be performed either just prior to or just after the expiration or earlier termination of the contract. Abandoned equipment results in a removal cost for GSA.

## SOLAR ROOFTOPS AND OUTLEASE ANTENNAS

Typically, solar rooftop projects do not cover the entire roof area. Oftentimes, there is available space to outlease to a wireless telecommunications carrier interested in renting

space for an antenna installation. Check with the Office of Facilities Management to determine if the building in question has, or is scheduled to have, a solar rooftop project.

The following are requirements to follow when outleasing antenna space on a rooftop with a solar project.

#### PHOTOVOLTAIC ROOF MEMBRANES

Photovoltaic (PV) roof membrane is a roof covering where the wafer-like solar collection panels sit flat upon the surface of the roofing material. Typically, PV membrane does not cover the entire roof surface; the roof perimeter is accessible and walkways are often built over the membrane to provide access for fire fighters. The access may provide enough space for antennas to be mounted within that perimeter.

- Nothing can sit on top of the membrane.
- The membrane cannot be penetrated.
- Staff, contractors and technicians may not walk on the membrane.
- Nothing may cast shade of any amount for any length of time on the collection surface. Even a shadow the width of a guy line can shut down the entire collection grid.
- While it is true the PV membrane creates an electromagnetic field, it is very low grade and of a different voltage than a radio microwave antenna; accordingly, the PV membrane and the antenna do not interfere with each other.

#### SOLAR ROOFTOP PANEL ARRAYS

These solar collectors are panels mounted on stands oftentimes arranged in an array on the rooftop. Typically, they do not cover the entire rooftop surface to allow for fire fighter access and equipment maintenance. The access may provide enough space for antennas to be mounted within the rooftop perimeter.

- Nothing may cast shade of any amount for any length of time on the collection surface. Even a shadow the width of a flagpole can shut down the entire collection grid.
- While it is true solar panels create an electromagnetic field, it is very low grade and of a different voltage than a radio microwave antennas; accordingly, the solar panels and the antennas do not interfere with each other.

#### ROOFTOP SOLAR COLLECTOR CONSIDERATION

Although unlikely, it is worth noting that radio frequency issues may occur when a solar field is installed where antennas are already present. If an antenna broadcasts across the solar field, it may cause an increase in radio frequency, thereby creating a potentially dangerous exposure for anyone walking around or working on the solar collectors. A radio frequency inspection can determine whether the placement of the antenna relative to the solar collectors will create a radio frequency disruption or danger.



## WITHIN-BUILDING DISTRIBUTED ANTENNA SYSTEMS

A within-building distributed antenna system (DAS) is a network of separately spaced compact antennas connected to a common source to provide the same wireless service as a single antenna within a geographic area or building. It uses less power than a single antenna and offers improved reliability. DAS can be used to provide Wi-Fi, cellular voice and data coverage.

When DAS is installed to improve coverage within a GSA-controlled asset, the system is providing a service to the Federal community that occupies the space and, therefore, must be acquired through the procurement process, following the rules of CICA and the FAR. In such cases, DAS cannot be contracted for and installed in buildings under GSA's jurisdiction, custody or control as an outlease.

However, should an outlease tenant, for example, a restaurant outleasing space in a public building, want to install a DAS to provide Wi-Fi coverage within the restaurant to enable its customers to access the Internet while in the establishment, the outlease tenant can contract directly with a private company to have a DAS installed that is separate and apart from all GSA or other federal IT systems present in the building. Review and approval of specifications, drawings and requirements by the appropriate regional PBS staff is required prior to installation by or on behalf of the outlease tenant.

## **PARKING, PARKING ASSOCIATIONS AND INDIVIDUAL PARKING OUTLEASES**

When a GSA building has more parking spaces available than the Federal occupant agencies require, outleasing, either by lease or revocable license, is an excellent asset management strategy.

Credit unions, employee associations and federal executive boards are examples of possible clients for parking association outleases. Leases can be negotiated at market rates with payments made to USDA Finance following the normal payment procedures.

In addition, a revocable license can be used to contract directly with individual employees of building occupants for use of unassigned parking spaces. In all these instances, the party with whom GSA is entering into the agreement is doing so in a private capacity and not as a representative of a Federal agency.

### **OUTLEASING TO A COMMERCIAL PARKING MANAGEMENT COMPANY**

Depending upon the location, number and type of parking spaces available for outleasing, some regions have had success outleasing parking spaces to a parking management company wishing to provide after-hours valet parking for the general public on an on-going basis or for special events. If the parking is in close proximity to a major entertainment venue or if parking is a scarce commodity in the community, this type of arrangement can be a win-win for all parties because GSA provides the parking management company with access to

parking it normally would not have in its inventory and, in turn, GSA receives revenue into the FBF.

Outleases have also been awarded to commercial parking management companies for an entire garage or lot, or a large portion thereof, in which case the company pays a monthly rent (and, in many cases, a percentage of the profits once a level of profitability has been achieved) to GSA and, in turn, leases parking spaces in the facility to the public. This is a viable alternative when there are a large number of available parking spaces and a market need for commercial parking.

## **PARKING REBATES**

Occasionally, GSA is asked to rebate parking rent because a parking tenant has not used the space, due to vacation, furlough, sickness, or any other reason. Just like private sector parking providers, GSA does not rebate rent for parking slots unused by the lessee, nor does it discount future parking rent to compensate parking tenants for unused slots.

## **PAYMENT METHOD**

The preferred payment method is through Pay.gov, the U.S. Treasury website. If the lessee must pay by check, use the proscribed process for submitting a rent check. (See: Outlease Rent Payments)

### ***Authority***

- 40 U.S.C. § 581(h)(1)
- Section 111 of NHPA, if the parking is part of a Federal asset listed in, or eligible for listing in, the National Register.
- Section 412 of GSA General Provisions, Consolidated Appropriations Act, 2005, may be used for parking outleases.

### ***Forms***

- GSA Form 3486 lease, when outleasing a parking facility to a parking management company.
- GSA Form 1582 license for parking associations and individual parking outleases.
- Vendor Code Request.
- Occupancy Agreement.

### ***Database Inputs***

- OA Tool to enter OA data
- REXUS to request OA Finalization of RBM
- GREX to scan and upload signature documents and supporting contract files (any document normally required in a contract administration file).

## LAND PORTS OF ENTRY

A land port of entry (LPOE) is a facility that provides controlled entry into and out of the United States for people and materials. It houses the U.S. Customs and Border Protection (CBP) and other Federal inspection agencies responsible for the enforcement of Federal laws. An LPOE consists of the land, the buildings, the on-site roadways, and the parking lots occupied by the port of entry.

According to the CPB website, there are over 300 ports of entry along the United States borders, over 100 of these ports (owned and leased) are under the jurisdiction and control of GSA. Several of the ports of entry are listed in the National Register of Historic Places.

### Agencies Typically Located at LPOEs

- GSA PBS
- Customs and Border Protection
- Federal Highway Administration
- Food and Drug Administration
- Immigration and Customs Enforcement
- Transportation Security Administration
- Central Intelligence Agency
- Agriculture
- Fish and Wildlife Service

### LPOE Outlease Tenants

The most common outlease tenants located at an LPOE are brokers. Brokers at LPOEs are private individuals, partnerships, associations, or corporations that are licensed, regulated and empowered by CBP to assist importers and exporters in meeting Federal requirements governing imports and exports. Various other entities performing functions related to a border crossing, such as Region 7's Texas Alcoholic Beverage Commissions or Region 1's AMMEX Tax and Duty Free Stores, are outlease tenants at the LPOEs.

## Authority to Use

40 U.S.C. § 581(h) is the legal authority to use for the commercial companies that outlease space in the LPOEs when the property is not listed in, or eligible for listing in, the National Register of Historic Places.

For outleasing when the LPOE is listed in, or eligible for listing in, the National Register of Historic Places, use Section 111 of NHPA (54 U.S.C. §§ 306121 and 306122).

## LPOE Outlease Rates

Market-based rates should be used, whenever possible. The regional appraiser can provide assistance in determining rates in challenging remote rural markets. Return on Investment, also known as ROI, pricing should not be used for LPOE outlease tenants. GSA Pricing Policy applies only to space provided by GSA for its Federal customer agencies, not to private sector, state or local government outlease tenants.

## SITE ACQUISITION WITH OCCUPANT IN PLACE

When real estate is acquired with an occupant in place, Outlease has an important role on the site acquisition team. An outlease agreement must be implemented with the occupant; the private occupant must pay a market-based rate for continued occupancy in the acquired real estate. Careful consideration must be given to capturing occupant and Government rights contractually. The exception is when GSA acquires a property subject to an existing lease; in that case, the existing lease is assigned to and assumed by the United States. In those regions in which outleasing is not a regular part of the site acquisition team, introducing oneself to the site acquisition team and sharing how outlease adds value to the acquisition process benefits all involved.

### **Site Acquisition Decision Points:**

- Determine whether property is to be purchased with or without occupant
- Is the use business or residential?
- Explore whether there will be a short or long delay between purchase and displacement
  - Confirm schedule with project manager
- Plan with the relocation counselor so that any benefits that may be due the potential outlease tenant under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law No. 91-646), as amended, are clearly communicated prior to purchase/negotiation.
  - Determine consideration and term
  - Prepare license
  - Relocation benefits
  - Insurance
  - Communicate all terms with site acquisition specialist for successful negotiation
  - Hold execution of license until U.S. Government owns property

## OUTLEASING SITES

GSA has the authority under 40 U.S.C. § 581(d) to outlease proposed building sites, including improvements, until the property is needed for construction.

The rent must be at market-based rates and on terms and conditions that do not interfere with the proposed construction project.

Outlease of a proposed building site may be negotiated without competition if:

1. The lessee is:
  - a. The former owner from whom GSA acquired the property or
  - b. The former owner's tenant in possession; and
2. The lease is negotiated incident to or in connection with the acquisition of the property.

If the former owner or tenant in possession is not interested in outleasing the site, issue an Expression of Interest to ascertain market interest in the proposed site.

Proceeds are retained in the FBF.

### Examples of outleased sites

Carl B. Stokes Courthouse, Cleveland, OH

The Stokes Courthouse was completed in 2002. The project was originally envisioned as a multi-use complex, the acquired site large enough for the courthouse, a pedestrian plaza and a privately developed two-tower, mixed-use residential, hotel, retail, and parking garage development. The land not required for the courthouse was to be used for the plaza project and a ground lease was negotiated with a developer for the creation of the plaza portion of the project. Unfortunately, an economic downturn resulted in the plaza project failure. In 2003, the idle land was outleased to the City of Shaker Heights for a parking lot. The parking lot outlease brings in \$65,000 in revenue annually to the FBF.

Parking Lot, Phoenix, AZ

This site was originally declared surplus by PBS and, in 2008, was received by the Office of Real Property Disposal for disposition. The strategy was to sell the site, but when no suitable offers were received, the Disposal Zone staff recommended transferring the site back to Portfolio and to outlease the site until the real estate market improved. After outleasing the site for several years, a Federal need was identified; the parking lot is now used by GSA's customer agencies.

## **Other Concepts**

When outleasing for commercial activities isn't feasible, consider public benefit activities. For example, for sites in urban locations, other temporary community uses can improve the surrounding community environment. Currently under consideration are community vegetable gardens and dog parks. These public benefit uses encourage citizens to join together in activities, which may encourage a more strongly connected community and reduce street crime. Consider collaborating with the Office of the Chief Architect's Urban Development staff to determine whether public benefit and other temporary site uses might be possible when the site cannot be outleased for commercial activities.

## GROUND LEASES

GSA has the authority under Section 111 of the National Historic Preservation Act to outlease historic properties that are not needed for current or projected agency purposes when it is determined that an outlease will adequately ensure the preservation of the historic property. In some cases, the Government outleases an entire historic property or a predominant portion of the historic property using a long-term (50+ year) ground lease. This type of agreement is typical and necessary when the Government is seeking an adaptive use of a historic building that requires a significant investment from a developer that can only be recaptured over a longer term.

Outleasing through a ground lease is not a typical project and requires extensive planning, analysis and execution. As such, this type of project requires a large multi-disciplinary team that typically includes, at a minimum, a Project Manager, Outleasing Contracting Officer, Asset Manager, Architect, Project Engineer, Historic Preservation Specialist, Environmental Specialist, and Regional Counsel. While not required by law, GSA follows the FAR and CICA best practices, as they benefit the public interest by maximizing full and open competition. Additionally, ground leases typically require a custom lease contract that is unique to the negotiated terms and conditions between the Government and the tenant; please be sure you are consulting with the Central Office outlease program leads prior to entering negotiations for a ground lease agreement.



# ENTERING NEW OUTLEASE FINANCIAL INFORMATION INTO GSA SYSTEMS

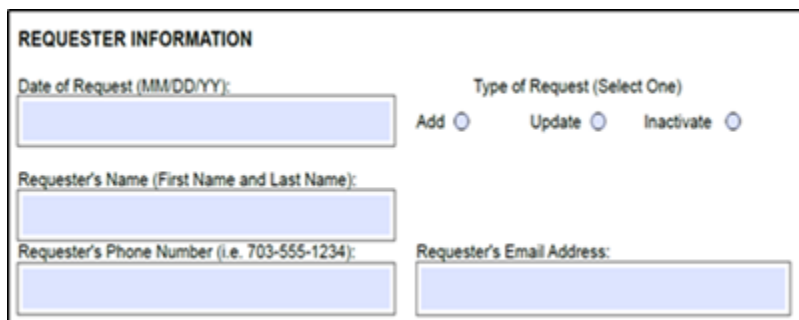
The process to record space and financial information into GSA databases is centered on OA Tool; the OA is the data transfer vehicle conveying outlease contract financial information into the BAAR system. However, for an outlease OA to achieve Final status, it requires interacting with the Vendor Code Request process and REXUS; therefore, all three systems are discussed in the following instructions.

## THE VENDOR CODE REQUEST

Background: The Vendor Code is required for every outlease charging a user fee. USDA Finance requires the provision of outlease customer Personal Identifying Information (PII), in particular, the outlease customer's Taxpayer Identification Number (TIN) or, in the case of a corporation, company or nonprofit, the Employer Identification Number (EIN). The Vendor Code Request process is required for outleases because PII cannot be securely stored in OA Tool. The Vendor Code PII is stored in BAAR in an encrypted file, with access restricted to authorized USDA Finance staff. The Vendor Code is used to establish an account in BAAR into which the final OA information will be housed; the TIN/EIN is required to process refunds and to refer delinquent accounts to the U.S. Treasury for collection. It is possible to create an OA without a Vendor Code, but the OA cannot be finalized without a Vendor Code.

## COMPLETING THE VENDOR CODE REQUEST FORM

1. Requester Information Entries
  - a. Date of request in MM/DD/YY format
  - b. Type of Request, select between New, Update or Inactivate. Choose Update when the customer's location or contact information changes. Choose Inactivate when the contract has expired and it is certain the customer will not outlease from GSA in the future.
  - c. Requester's First and Last Name
  - d. Requester's phone number
  - e. Requester's email address



The screenshot shows a form titled "REQUESTER INFORMATION". It contains the following fields and options:

- Date of Request (MM/DD/YY):** A text input field.
- Type of Request (Select One):** Three radio button options: "Add", "Update", and "Inactivate".
- Requester's Name (First Name and Last Name):** A text input field.
- Requester's Phone Number (i.e. 703-555-1234):** A text input field.
- Requester's Email Address:** A text input field.

2. Vendor (Outlease Customer) Information Entries
  - a. Outlease fields to be completed are highlighted in the screenshot below

- b. Vendor/Business/Customer Name: Enter business name or, when private citizen, the customer's name
- c. Identification Number: enter TIN or EIN
- d. Vendor Type: Always select "Outlease"
- e. DUNS: Enter the company's DUNS number, if it has one.
- f. Three Digit Agency Code: Enter one of the following codes for Non-sponsored, Non- Federal vendors:

N9A – State and Local

Government N9C – Commercial

N9D – D.C. Government

N9T – Tribal

Organizations N9P –

Non-Profit

**VENDOR INFORMATION**

\*Vendor Code:  Vendor/Business/Customer Name:

\*For add requests leave blank except for Rent or ALC vendors.

\*Identification Number:  Vendor Type (Select One)  
 Outlease ☒ External Services ☐ Rent ☐ Other ☐

\*Taxpayer Identification Number (TIN), Employee Identification Number (EIN) or Social Security Number (SSN).

\*Agency Location Code(ALC):  Data Universal Numbering System (DUNS):

\*ALC is required for IPAC Vendors/Customers, provide 8-digit ALC code.

3 Digit Agency Code:  Bureau Code:

3. Mailing Address, Physical Address, Remittance Address, and Notes/Comments Fields
  - a. Enter the customer's mailing address for billing purposes in both the Mailing Address and Remittance fields, enter the GSA building address at which the outlease is located in the Physical Address field.
  - b. Enter any additional information you feel may be helpful to the Vendor Code Team in the Notes/Comments field.
4. Once completed, email the form to the Region 7 USDA Vendor Code Team at: [fw-arvendorcoderequest@gsa.gov](mailto:fw-arvendorcoderequest@gsa.gov).
  - a. GSA PII Security Protocols must be used to email the form.
  - b. Password protect the PDF, in email subject line type: *New Vendor Code Request GS-XX-XXX-XXX12345*
  - c. Follow with second email containing password, using same subject line, e.g., *New Vendor Code Request GS-XX-XXX-XXX12345*

USING OA TOOL AND REXUS TO CREATE THE OA

1. Open the OA Tool application,
2. Create the draft OA, making sure the location code is entered
3. Copy the OA Number from the OA # field in the OA Main Screen.
4. Enter one of the two Agency Bureau (AB) codes for outleases:
  - a. 4786 – outleasing in GSA assets listed in the National Register of Historic Places or officially determined to be eligible for listing in the National Register
  - b. 4787 – all other outleasing actions
5. Open the REXUS application.
6. Create the Agency Space Assignment (ASA); paste the OA Number you copied from the draft OA into the OA number field.
7. Create the Outlease Agreement Number; copy this number to paste into OA Tool to avoid any typographical errors.
8. Create the Project Number.

Note: this is optional for outleases in Federal buildings; not all regions require the creation of a project number. A project number is required for an outlease in a leased building.

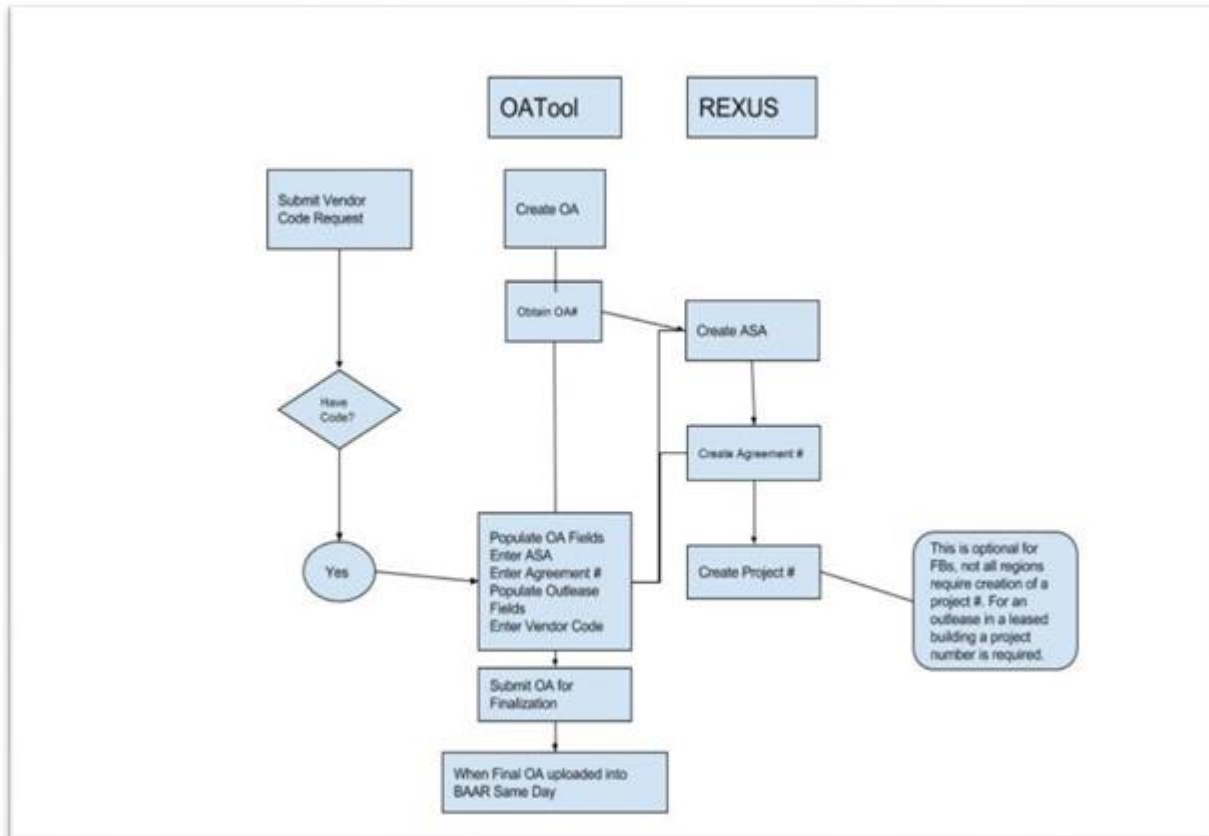
9. Return to OA Tool. Enter the ASA, Outlease Agreement Number and the Vendor Code into the appropriate fields.
10. Complete any remaining entries in the main OA Screens and complete the Outlease Fields.

Outlease Fields - AMD06032

Agreement Number	GS-03P-ORD97998
Lessee Name	Linda Reeder
Vendor Code	010017
Issued By	steve.peters@gsa.gov
Document type	ORD - Retail
Revenue Source	4211 - Indefinite
Bill Cycle	<input checked="" type="radio"/> Monthly <input type="radio"/> Quarterly <input type="radio"/> Annually
Vendor Novation Code	
Vendor Novation Date	
Agreement Signed Date	08/21/2015

Save Cancel

## Outlease Data Entry Work Flow



### OA TOOL AND BAAR BILLING CYCLES

It is important to know the difference between the two systems' billing cycles and what that means for the timing of your final OA or billing adjustments to an existing OA.

Unlike OAs created for GSA Federal customer agencies, Outlease OAs do not bill out of OA Tool. Outlease account billing is a function of the BAAR system and, therefore, until the Outlease OA is in Final status and uploaded into BAAR establishing the Outlease account in Pegasys, billing cannot occur.

### BAAR AND OA TOOL CYCLE TIMES

BAAR billing occurs during the first three to five business days of every month. The interface between BAAR and OA Tool is closed during this time. OAs put in Final status when the interface is closed will be queued for uploading into BAAR immediately upon re-establishment of the interface. For the account to be billed on the first of the month, the Outlease OA must be in Final and uploaded into BAAR before the interface closes for that month's billing. For example, if the Effective Date is June 1, 2017, the OA has to be uploaded

no later than the last business day of May for the June billing to take place. If the OA is uploaded during or after the interface close, the account will not be billed until July.

OA Tool uploads into BAAR every four hours, *except* when the interface is closed. OA Tool is closed on the 15<sup>th</sup> of every month to bill the Federal customer agencies OAs. Be mindful of this when planning the creation of your Outlease OA and when the OA needs to be uploaded to bill at the proper time.

## PARTIAL MONTH OUTLEASES

Partial Month outleases are outlease activities that begin and end within a single billing cycle (e.g., film events, special events and occasional parking). OA Tool and BAAR have special billing requirements for these outleases.

To meet OA Tool billing requirements, if an outlease term does not include the 15<sup>th</sup> of the month, the OA term must be artificially extended to the 15<sup>th</sup> of the month. The OA term is not required need to match the outlease agreement term on these requests.

To meet BAAR requirements, if the outlease's effective date is *after* the first of the month, the OA expiration date must be extended to the first of the following month to comply with BAAR billing requirements. The outlease agreement does not need to match the OA term on these partial month requests, so long as the term captures the 15<sup>th</sup> of the month, and if the effective date is after the first of the month, the expiration date is extended to the 1<sup>st</sup> of the following month. In addition:

- Rates must be set at \$0.
- All outlease rent will be collected through a billing adjustment using the "Outlease Partial Month" billing adjustment reason code.
- All other components will be reviewed using the standard Outlease Special Case reason code.
- Submit the OA for Finalization.

Once approved as Final, the OA will be uploaded into BAAR later the same day.

## RENEWALS

When GSA accepts an outlease customer request to grant an option to renew, the new expiration date changes the original contract terms and, therefore, a new document capturing the new terms, *i.e.*, changing the expiration date to reflect the new term length, must be prepared by GSA and signed by both parties. The data entry requirements for contract renewals (sometimes referred to as contract extensions) vary slightly from the new contract data entry requirements and are described below:

- Do not create a new OA. Do a *replacement* OA entering the new expiration date. Creating a new OA will create a second account in BAAR, resulting in your customer being billed twice; the rent payment will be applied to one account and a delinquency notice will be sent for the second account.

- Do not create a new contract number. Use the *original* contract number. Using the existing account number in the replacement contract prevents a new account from being created in BAAR. It also eliminates payment confusion, as in the past customers continued to pay using their old account number, resulting in rent payments not being applied, as the old contract number no longer exists in BAAR and the customer would be sent delinquency notices for the “unpaid” new contract.

## BILLING ADJUSTMENTS TO ACTIVE OUTLEASE OAS

Billing adjustments to active (*i.e.*, the expiration date has not been reached) Outlease OAs can be affected by going into OA Tool and choosing “Late Replacement” as the Reason Code.

Assuming there is at least another month left in the contract term, the entered billing adjustment(s) will automatically be included in the next month’s bill.

## BILLING ADJUSTMENTS TO PAST MONTHS AND CHANGING CONTRACT DATES WHEN EXPIRATION DATE HAS PASSED

OA Tool will accept contract date changes to expired OAs and also allows billing adjustments to past months. However, BAAR allows neither. OAs for contract date changes and billing adjustments to past months are rejected by BAAR. To make a contract date change in this circumstance, do the following:

1. Email Tom Uba of the Pricing Policy Division (PTD) to request a database change. Presently, a database change is required to make these data changes in BAAR. In your request, include the OA number, along with the contract date changes or billing adjustments.
2. Complete the [Contract Date Change/Billing Adjustment Google](#) sheet to alert USDA Finance to the changes.

In the future, it is hoped funding for system changes to both BAAR and OA Tool automating these changes will be approved.

## GREX

Upon completion, outlease agreements and the supporting contract documents must be uploaded into GREX.

## OUTLEASE RATE DEVELOPMENT

Unlike Rent established by Pricing Policy for GSA's Federal customer agencies, outlease rental rates are based on local market rates for commercial customers in similar properties. That is, rents are not set in the manner of Pricing Policy, but rather negotiated with prospective tenants, using market data based on comparable real estate for commercial tenants in the surrounding area. When establishing market rates:

- Refer to the May 19, 2010, memorandum, signed jointly by the Office of Real Estate Acquisition (PR) and the Office of Real Property Asset Management (PT), entitled "Clarification of Outlease Rent Rate Process."
- When local market rate information is difficult to obtain, confer with the regional appraiser on what commercial market rates are currently in place in the area of your outlease opportunity. The regional appraisers have many resources for providing current market data for space to be marketed to the private sector, regardless of space type. Use the market information provided by the regional appraiser to document contract files and support rent rate negotiations with prospective tenants.
- The Office of Leasing, Center for Strategic Planning and Measures, is another source for market rates.
- Advertising outlease opportunities can be useful not only for attracting potential tenants, but also to gauge the market. The responses to your advertisement can provide information on what the market perceives to be acceptable rental rates, which you can then use as support for negotiations and contract administration.
- When outleasing vacant leased space (sometimes referred to as subleasing), the outlease occupancy term must not exceed the term of the master lease. It is permissible to negotiate a rent rate higher than the rent cited in the master lease, if current commercial market rates support a higher rate. Conversely, it is permissible, but not desirable, to negotiate a sublease rate for less than the rate set by the master lease if the commercial market rate has declined since the master lease was negotiated. Again, careful documentation of the outlease process and market rate research must be kept in the contract file.
- Outleasing space to private sector retail businesses for retail activities and outleasing rooftop space to commercial telecommunication companies for antenna sites are also outlease activities in which the rent rate is negotiated based upon the current commercial market. Both industries are highly competitive; therefore, rates favorable to the Federal Government usually can be negotiated.

Other sources of information for antenna rates include municipalities, which may tax these agreements or have antennas on water towers or their own buildings. The antenna rent rates charged by municipalities may be available to the public. Another resource may be shopping malls, as many rent rooftop communications space. In remote areas where market data is not readily available, a resource to consider is the Department of the Interior's BLM website, which lists rates they have negotiated for BLM antennas and towers.

Proper documentation is a critical element to an outleasing file. A negotiation objectives document must be developed at project initiation to document the market rental rates the Outleasing LCO determines to be fair and reasonable in accordance with the Outleasing LCO's market research. Market research generates useful information for setting negotiation objectives by helping to identify ranges of fair and reasonable costs for the type of space desired.

Additionally, a negotiation memorandum or price negotiation memorandum (PNM) must be developed to document an accurate record of all negotiations with each offeror. The PNM summarizes negotiations and explains why an award was or was not made. Anyone reading the document should be able to understand the issues of negotiation and the outcomes, whether the offer was fair and reasonable and the basis for that determination.

The PNM documentation must include the following:

- The purpose of the negotiation.
- A description of the outleasing action.
- A summary of the contractor's proposal, any field pricing assistance recommendations, including the reasons for any pertinent variances from them, the Government's negotiation objective, and the negotiated position.
- The most significant facts or considerations controlling the establishment of the negotiation objectives and the negotiated agreement, including an explanation of any significant differences between the negotiation objective and the agreement.
- The Outleasing LCO's signature and date

Notes:

1. The exceptions to this discussion are outleases for nonprofit, cultural or fraternal organizations, if these outleases are no-use fee licenses for use of public spaces for cultural, educational or recreational activities. These licenses contain terms and conditions, e.g. certificate of liability insurance, governing the use of the public space. These outleases are not intended to be covered here.
2. The authorities that apply to the outleasing activities referenced above are:
  - 40 U.S.C. § 543
  - 40 U.S.C. § 585(b)
  - 40 U.S.C. § 581(h)
  - 54 U.S.C. §§ 306121 and 306122



- Section 412 of the GSA General Provisions, Consolidated Appropriations Act, 2005.

## Variable Rate Contracts

In certain circumstances, variable rate contracts may be the best rental structure for an outlease agreement. This rate structure is common when month-to-month income of the outlease tenant is highly fluctuating and there is a need for the tenant and landlord to share in the risks and benefits. Generally, it is recommended that the outlease Contracting Officer avoid a variable rate contract, due to the administrative burden. However, if this type of contract is pursued, there are policies that the Contracting Officer must follow to collect the correct payments.

Outlease contracts with a variable rate structure must include a provision that enables the Government to verify that the rental consideration received is in accordance with the contract terms. The LCO or COR must reconcile reports generated by the tenant as required in the outlease contract to verify the accuracy of the rent payments. The LCO must produce an annual memorandum to the file confirming that the LCO has reconciled the rent payments in accordance with the outlease contract and the tenant's supporting documentation.

Beginning in Fiscal Year 2021, and annually thereafter, the National Outleasing Program Managers will conduct an audit to confirm regional compliance with contract administration responsibilities for variable rent outleases.

# OUTLEASE RENT PAYMENTS AND VENDOR CUSTOMER SELF- SERVICE SYSTEM

Since transitioning into the BAAR system, outlease tenants no longer receive paper payment coupons. Instead, tenants sign up for the OCFO online VCSS system, which allows outlease tenants (and GSA vendors) to see if there is a current unpaid bill and their billing history, and also provides a link to pay.gov to facilitate online payment.

## VCSS

As part of the award letter, include the VCSS Customer Instructions. Also, provide the Outlease client the Vendor Code obtained from USDA Finance, as the Vendor Code is required to establish an account in VCSS.

The CO or COR also can obtain view-only access to VCSS, which will allow them to see their tenant's VCSS screens and respond to customer account questions. To obtain that level of access, contact the Financial Systems Service Desk at 1-866-450-6588 or [OCFOServiceDesk@gsa.gov](mailto:OCFOServiceDesk@gsa.gov).

## PAY BY CHECK

When paying by check, the Outlease client is required to write the *complete* Outlease agreement number in the check's memo line or on the check stub. If including a cover letter with the check payment, the complete Outlease agreement number should also be included in the cover letter. Without the complete Outlease agreement number, the rent payment cannot be applied to the account, resulting in delinquency letters and, possibly, the assessment of interest, penalty and administrative fees (IPA). Checks must be mailed to the following addresses:

### **Regular Mailing Address:**

**General Services Administration  
P.O. Box 6200-28  
Portland, OR 97228-6200**

### **For Overnight Delivery:**

**U.S. Bank  
Attn: Government Lockbox – General Services Administration (GSA) #6200-28  
17650 NE Sandy Blvd.  
Portland, OR 97230**

## PAY.GOV

Pay.gov allows the outlease tenant to use its PayPal account or credit card to pay its outlease rent bill. The complete contract number is required when making a rent payment. The outlease tenant should make note in the comment area if the payment also includes IPA or any other detail out of the ordinary. The VCSS website provides a link to Pay.gov for the user's convenience.

# MARKETING

Advertising all outlease opportunities is now a required PBS policy. Once the Facility Manager, space management/realty specialist or asset manager identifies an outleasing opportunity for GSA properties, a marketing plan should be prepared. A marketing plan can help organize all the real estate considerations to be taken into account when deciding what type of private sector tenant fits the property. Typical considerations are occupant agency and community levels of interest, facility security and systems implications, historic significance of the property, and the appropriate legal authority.

If the marketing will be done in-house, create a marketing plan to notify prospects of outlease opportunities at GSA properties. When creating a marketing plan, consider the following:

1. Gather basic information. GSA realty specialists, local real estate brokers and online real estate market companies, such as CoStar, can be a source of market information. Suggested areas to cover are:
  - Description of property/leasehold location and surroundings
  - Amount of rentable space available
  - Quality of the space
  - Building amenities
  - Floor plan indicating location of available space and its square footage
  - Interior and exterior property photographs (check with the Facility Manager and local FPS liaison to determine if there are any security restrictions on photographs).
2. Identify possible prospects and the best methods by which to reach them.
3. Once the data is assembled and potential prospects identified, use the data to populate the following suggested marketing tools as part of the marketing strategy:
  - Web postings and web pages
    - CoStar, for the life of its current contract with GSA, will list at no cost GSA advertisements of office space outlease opportunities
      - CoStar will not list warehouse space, as it does not track warehouse rental trends/markets.
    - FedBizOpps.gov
    - Local area web listing, such as LoopNet.
    - Listings are also posted on the Outlease Program page on gsa.gov
  - Newspaper advertising
  - Business journal ads
  - Board of Realtor listings
  - Lobby fliers
  - Direct mailings.
4. Directly market opportunities to private sector or state/local municipality prospects. Consider including community colleges and universities in your marketing efforts. Advertise the outlease opportunities generally, as well as direct market to potential prospects, to encourage a strong market response.

All marketing materials must be documented and included in the outlease contract file and electronically in GREX.

## Competition in Outleasing

It is the responsibility of GSA and the GSA Contracting Officer to act in the best interest of the U.S. taxpayer. Therefore, Contracting Officers must negotiate a deal that is in the best interest of the Federal Government. Competition, along with thoughtful negotiations, enables GSA to obtain the best value rental rates for the taxpayer.

GSA is required to promote competition under certain authorities and under others is authorized to dispose of property on terms that the Administrator considers proper or to be in the public interest:

1. Public Buildings Cooperative Use Act – 40 USC 581(h)
2. Disposal of Surplus Property – 40 USC 543
3. Building sites & improvements – 40 USC 581(d).

It is PBS policy that, when competition can reasonably be expected, the Realty Specialist must, at a minimum, post an advertisement and solicit competitive bids. All competition materials must be documented and included in the outlease contract file and electronically in GREX.

## BROKERS

In most cases, marketing and advertising will bring the desired response from the market, eliminating the need for a broker to bring in tenants. This is the preferred approach. However, it is recognized that in some markets (e.g., major cities) and for specialized spaces (e.g., retail and restaurants) the best strategy to attract high-end, stable clientele is to work with broker-represented clients. Using a broker to market aggressively large amounts of vacant space can be advantageous, particularly in a soft market. Consider using the Office of Real Property Utilization and Disposal Real Property Sales and Support Services Blanket Purchase Agreement. Unlike the National Office of Leasing's National Broker Contract, which hires brokers to find leased space for GSA's Federal customers, the Office of Real Property Utilization and Disposal's BPA hires brokers to find private sector clients for GSA space. Contact your Office of Real Property Utilization and Disposal Regional Zone office for current contract terms, conditions and fees.

Considering contracting directly with a local broker? Engaging a local broker for relatively small blocks of space or for specialized space, such as food service, can be effective. Typically, brokers request a commission that represents a percentage of the annual rent; usually, the

percentage is large in the first year and smaller in subsequent years. If using a broker, the following best practices are to be used:

1. Conduct a market survey to determine range of local broker fees.
2. Prior to engaging the broker, obtain approval from regional budget officer or other appropriate finance person and the region's real estate director to request that funds be set aside for the expenditure.
3. Inform the broker upfront that should its client be chosen, the commission will be negotiated as part of the contract. It is not uncommon to be able to negotiate the commission down by as much as 50%.
4. Include in the contract language that the broker's commission will not be paid until the tenant has occupied the space **and** is open for business. This eliminates the possibility of paying the broker commission only to see the business close before occupying the space, leaving GSA without subsequent tenant revenue to recover the commission expense. This condition is required for food services outleases, as it is not uncommon in that industry for a business to let the space and then fail to open for business.

## FUNDING OUTLEASE ADVERTISING AND MARKETING EXPENSES

The Outlease Program (PTC) and the PBS Financial Budgeting & Reporting Division (BPA) agree that it is appropriate to use BA-61 funds for advertising, marketing and broker fees associated with outleasing actions in owned and leased space.

Please be aware that these funds come from the region's BA-61 allowance. Obtain permission from the regional budget officer, or other appropriate finance person, prior to committing to any outlease marketing expenditure. Also, observe that general advertising and marketing expenses are coded separately from broker fees to allow for precise analysis and monitoring of these expenses.

Please use the following coding information.

- Outlease Advertising/Marketing:
  - BA: PG61
  - OC: 25.2
  - SOC: J23
  - FC: PGD34
- Outlease Brokers Fees:
  - BA: PG61
  - OC: 25.1
  - SOC: H08
  - FC: PGD34

Submit a request for payment using GSA Form 49.

# OUTLEASE TENANT BUILD-OUT

## Owned Space

Space to be outleased is to be offered “as-is” to the extent practicable, but when it is not practical (e.g., “as-is” space is not competitive with comparable space in the local market) and is determined by the CO to be in the Government’s interest, Government funds may be used for minor refurbishing/alteration of owned space to be outleased.

What is minor refurbishing?

- Carpet cleaning or removal and
- Repainting.

Alterations constructed by GSA for the sole benefit of the tenant must be paid for by the tenant through an RWA. The outlease tenant may retain its own construction management company; however, all construction drawings and completed alterations must be approved by GSA. (See Outlease and RWA section for additional information.)

Alterations that benefit both the Government and the tenant, and are determined by the CO to be necessary for the leasing of the space, may be paid for by the Government, and the cost may be included in the annual rent over the life of the outlease. (see [sample tenant build-out form](#)).

## Leased Space

As in Government-owned space, GSA may pay for improvements to make the space marketable, if the lease gives the Government the right to alter the demised premises and if determined by the CO as necessary to make the space competitive in the market. However, above-standard space alterations must be paid for by the outlease tenant. The outlease tenant must enter into discussions with the building owner to negotiate any improvements to the property.



## OUTLEASE AND RWA

Outlease customers wishing to obtain services from GSA, whether a one-time service or recurring services, must pay for these services through an RWA. The RWA is the document that allows GSA to charge and collect the costs incurred by GSA to provide the service(s).

There are two types of RWAs available for outleases:

- C-type RWA
  - The C-type RWA is used for recurring services for non-Federal tenants. Examples of recurring services are utilities, including rooftop and tower antenna utilities, and janitorial services.
- D- type RWA
  - The D-type RWA is used for non-recurring services, such as overtime utilities, space improvement, special event security,<sup>19</sup> and one-time use of janitorial services.

The method for RWA payments is check, money order or Pay.gov. Outlease RWA payments follow procedures similar to the outlease rent payment procedures. Check payments for special events are presented no later than the day of the event to Outlease staff or the Facility Manager and usually mailed directly by the Facility Manager to the USDA Finance Miscellaneous Collections lockbox.

The Outlease agreement number must be written in the memo line of the check. Outlease tenants paying recurring RWAs by check or money order must include a copy of the RWA, write the Outlease agreement number on the check's memo line and mail the payment to the lockbox address (provided below for reference).

Mailboxes for RWAs:

### **Regular U.S. Mail**

**General Services Administration  
P.O. Box 6200-28  
Portland, OR 97228-6200**

### **Overnight Mail**

### **U.S. Bank**

**Attn: Government Lockbox – General Services Administration (GSA) #6200-28**

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<sup>19</sup>RWAs created for security charges for Federal Protective Service-provided security also require the creation of an SWA to create the obligation of funds for the associated RWA. The region's Office of Mission Assurance liaison assists in SWA processing.

**17650 NE Sandy Blvd.  
Portland, OR 97230**

For instructions on the preparation of an RWA, see the [RWA National Policy Document](#) on the Reimbursable Services page on PBS Insite. For non-Federal RWA customer information, see [About Your GSA RWA Statement](#).

# UTILITY COSTS

Outlease tenants in federally owned space must pay for utility costs, either by inclusion in the rent payment or through an RWA.

Utility service payment terms and conditions, even when included in the rent, must be written into the outlease agreement, whether a lease or license is used.

## ***Metering***

The preferred method of determining utility usage is through separate metering, where the service utility provider installs a separate meter for the outlease customer at a location approved by the Facility Manager. In this instance, the tenant would be billed directly for its usage by the provider and the tenant would be responsible for all costs associated with the installation of the meter.

When it is not possible to have the space separately metered to allow for direct billing by the utility provider, utility expenses can be rolled into the rent bill. The Facility Manager can provide the average use energy rate for the building, which can then be included with the rent rate. The contract must include language reflecting the inclusion of a utility cost in the rent rate. Alternatively, daily utilities can be paid through an RWA.

Electric service for rooftop and land-based outlease antennas must be paid for through a C-type RWA. An annual estimate of usage can be obtained from the Facility Manager. The payment can be either annually or monthly. At the end of the year, the utility bill will be reconciled with usage, with over/under payment refunded or billed.

## ***Occasional Overtime Utility Usage***

Occasional overtime utility usage *must* be paid through a D-type RWA, coordinated with Building Management.

# CONTRACT ADMINISTRATION

Professionally administered leases and licenses are the key to successful outleasing. From cradle to grave, taking the time to organize and maintain your contracts and contract files will save a CO and the COR hours of lost productivity, increase tenant satisfaction and protect the interests of the Federal Government. Given the critical importance of contract administration to outleasing, the basic principles of contract administration, as they apply specifically to outleases, are outlined below.

## Project Team

- CO
- COR
- Realty/Federal Space Management Specialist
- Facility Manager
- Asset Manager

## Contracting Officer Responsibilities

The CO is responsible for negotiation and execution of the contract and any amendments thereto, legal actions and Federal compliance, internal audits, payment delinquencies, terminations, and periodic management reviews.

The exercise of contracting authority is subject to the Contracting Officer Warrant Program. For additional information on CO warrants, please contact the region's Warrant Board.

## CO Outlease Contract Process Overview

- Marketing and Advertising
  - Primary method to notify the general public that vacant space is available for lease.<sup>20</sup>
- Broker Services
  - Broker services can be funded out of BA-61. An estimate of funds required must be requested during the annual budget call.
- Certification of Funds
  - Notify the Regional Financial Services Division for funds certification prior to obligating any funds required for an outlease action.
- Negotiation discussions include:
  - Market rates
  - Compatibility with other uses of the property
  - Facility access; is weekend/after-hours access required?

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<sup>20</sup>See Marketing section for more detailed information.

- Facility Access Cards and other security requirements must be addressed
- Taxes, if applicable. Tenant is responsible for any state and local real estate and other use taxes levied. A clause requiring proof of payment should be included in the standard outlease contract.
- Cleaning requirements and trash removal may be negotiated to minimize GSA responsibility and expense.
- Utility consumption/payment
  - Separate metering and direct payment to utilities by lessee is preferred
- Security deposit<sup>21</sup>

## **After Contract Award**

- Document preparation and distribution
  - The contract is, in most cases, a multiple page document with exhibits. Do not separate the contract/license pages from the exhibits.
  - The original contract remains in the official contract file; tenant receives one copy.
- Rent escalations and billing adjustments must be made in OA Tool in time for the changes to be billed by BAAR on the effective date.
  - Contracts being renewed or extended must be awarded and the new billing information entered in Pegasys/BAAR within 60 days of the original contract expiration date. U.S. Treasury regulations require the return to the tenant of all payments made after the expiration date, if a replacement contract is not in place within 60 days after the contract expiration.

## **Contracting Officer Representative's Duties and Responsibilities**

The following list is intended to impart what duties and responsibilities a CO may delegate to the COR. It is the CO's prerogative to determine what duties and responsibilities he or she will or will not delegate to the COR. The COR must document the actions taken under his or her delegation of authority and keep the CO informed. A COR's specific contract administration duties and responsibilities will be detailed within the COR delegation of authority letter presented to the COR by the CO.

### **General COR Responsibilities**

1. Perform timely and reasonable inspection and monitoring of lessee's performance, as defined in the outlease.
2. If responsibility delegated by the CO, keep the CO fully informed of lessee's compliance with the terms and conditions of the outlease as they relate to the maintenance of the outleased premises and the timely payment of rent.

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<sup>21</sup>Security deposits equaling the first month's rent are required of all outleases with terms exceeding one billing cycle, with the exception of individual parking outleases, as risk of property damage to parking spots is minimal.

3. Maintain direct communications with lessee, the CO and the Facility Manager, and keep records of all such communications, including inspection and progress reports and site visits, by maintaining a log of all communications in a file.
4. Work collaboratively and quickly with the CO and lessee to resolve issues that arise under the outlease.
5. Know and act within the limits of your authority and use reasonable care in performing designated duties.
6. Coordinate inspection services that lessee may be obligated to provide under the outlease.
7. Maintain confidentiality of sensitive information; safeguard lessee and contractor's confidential business and technical information in accordance with the Privacy Act and GSA's regulations governing the release of sensitive information.
8. Conduct your duties in a professional and ethical manner.
9. Avoid improper business practices and personal conflicts of interest.
10. Avoid any action or the appearance of any action that may lead to an ethical violation or conflict-of-interest position or compromise GSA's position with industry and congressional officials or the public.
11. Maintain an impartial, arms-length relationship with lessee, its contractors and employees, and convey to GSA contractors the need to manage lessee interactions in the same fashion.
12. Read, understand and if delegated by the CO, monitor compliance with the terms and conditions of the outlease, especially those contract terms and conditions that fall within the area of your responsibility, such as renewal option or outlease expiration dates, energy consumption and reports or data submission dates.
13. In concert with the CO, send cure letters in accordance with established procedures when lessee fails to perform its obligations under the outlease.

## **Specific COR Responsibilities**

1. Technical Liaison and Monitoring
  - a. Confirm lessee utilizes the space as agreed upon in the contract terms and conditions.
  - b. Confirm lessee's insurance certificate (if applicable) remains current as specified in the contract. Notify the CO of any reduction or cancellation of the policy.
  - c. Confirm lessee's personnel working in the outleased premises wear identification at all times that visibly identify them as non-federal employees.
  - d. Record and report to the CO deficiencies, unsatisfactory performance or other problems needing corrective action. In addition, advise the CO of any potential disputes, problem areas or disagreements that could lead to a claim.
  - e. Confirm all required inspections are performed according to the outlease.
  - f. Document any deficiencies and work closely with both lessee and CO to correct deficiencies. If lessee requires additional time, lessee must submit a formal request for a time extension to the CO through you. You should either indicate

your concurrence or state the reasons why you do not concur, and forward the request to the CO for finalization.

- g. Monitor the monthly Outlease Inventory financial reports to confirm account information is accurate, keep the CO abreast of late payment reports and assist the CO with executing contract renewals in a timely manner.

## 2. Inspection and Acceptance

Subject to the limitations of your authority, inspect and accept work that lessee performs under the outlease, including the punch list creation and close-out procedures, as follows:

- a. Conduct the punch list walk-through of the outleased premises with lessee and GSA facilities staff.
- b. Complete acceptance inspection of the outleased premises, using GSA Form 1204 to record the beneficial occupancy date, and the punch list (GSA Form 2480) to record any punch list items. If there are no punch list items, you must still complete the punch list (GSA Form 2480) and indicate on both GSA Form 1204 and GSA Form 2480 that there are no punch list items. GSA Form 1204 must list the beneficial occupancy date, square footage measurements, parking space count, and the other items specified on the form.
- c. Send a copy of the punch list to lessee, along with the standard cover letter giving lessee 30 days to complete the work. A copy of the documents must be sent to the customer agency, the CO, the Facility Manager, and the Service Center Manager.
- d. Inform the CO of any punch list issues, and receive concurrence from the CO before sending letters to lessee.
- e. Conduct ongoing inspections of the space until all punch list items are resolved to your satisfaction and inform the CO of the status.
- f. If punch list items are unresolved within 30 days, you must inform the CO, in writing.
- g. When all work has been performed to your satisfaction, complete and transmit the final, updated punch list form to the CO, the Facility Manager, the Service Center Manager, and lessee.

## 3. Close-Out Inspection

Inspect the outleased premises just prior to the expiration of the outlease and immediately following lessee's move out, subject to the limitations of your authority, to confirm:

- a. The space has sustained only reasonable wear and tear;
- b. There is no lessee equipment or personal property left on the premises;
- c. All keys, access badges and parking passes have been returned;
- d. If premises have been sub-metered, a final reading of the utilities has been conducted; and
- e. If lessee has made GSA-approved alterations, that the premises have been returned to the condition cited in the outlease.

## Limitations on Authority

As a COR, you **do not** have the authority to:

1. Take or agree to any action that commits GSA in matters that would change the contract price, quantity, quality, delivery schedule, or other terms or conditions of the outlease. The CO remains the exclusive agent of the Government with authority to modify or amend the outlease.
2. Amend or otherwise modify the outlease, or otherwise perform duties reserved for a warranted official.
3. Violate internal controls requiring separation of duties, such as obligating the payment of funds.
4. Cause lessee financial harm, such as to incur costs not otherwise covered by the outlease, with the expectation that through the ratification process the Government would reimburse lessee for such costs.
5. Make or infer, by action or inaction, legal interpretations on the scope, scheduled delivery or intent of the outlease that could imply a change to the outlease resulting in a claim or commitment or otherwise obligate the Government.
6. Offer advice to lessee or its contractor that may be construed as instructions that could compromise the rights of the Government, provide the basis of a claim for compensation, release lessee from its obligations under the outlease, or affect any pending or future CO determination as to fault or negligence.
7. Make assertions to lessee regarding contractual remedies available to the Government without prior consultation with the CO.
8. Demand that lessee perform any task that is a deviation from any of the terms and conditions of the outlease, or waive any terms and conditions of the outlease.
9. Increase or decrease the rental consideration of the outlease or authorize any work or the expenditure of funds beyond the dollar limit of your authority as provided for in the outlease.
10. Give any direction to lessee or to employees of lessee, except as provided for in the outlease.
11. Authorize or approve the furnishing of Government property or expenditure of funds for the purchase of equipment, except as provided for in the outlease.
12. Approve or disapprove any substitution not specifically provided for in the outlease.
13. Resolve or make decisions concerning any claims or disputes involving a question of fact or law.
14. Allow the improper use of government property.
15. Receive or accept goods and services not expressly required by the outlease.
16. With the exception of issuing cure letters or sending general correspondence related to the daily maintenance and operation of the outleased premises, issue any final decision



letters or correspondence proposing to reduce the rental consideration for the value of the outlease requirements not performed.

17. Delegate COR duties and responsibilities.

## **Contract Administration**

Outlease contract administration includes:

- Monitoring the space usage
  - Is the tenant using the space according to the terms of the contract?
- Adhering to security requirements
- Monitoring utility usage, cleaning and trash removal
- Confirming timely rent payment\*
- Determining percentage rent changes\*
- Determining rent abatements or other relief, if applicable\*
- Termination for convenience\*<sup>22</sup>
- Confirming that current certificate of insurance naming GSA/U.S. Government as additional insured is in effect

Basic contract file contents:

- CO information
- Justification memorandum
- Advertising
- Client proposal
  - Email and other correspondence
- Contract and contract number
- Certificate of insurance
- COR appointment letter
- Internal documents, such as OA, Spatial Data Management certification (if your region requires), approved gPM plan.

## **Interested Parties Clause**

Beginning July 2020, all standardized GSA outlease forms will contain a revised “Interested Parties” clause. This provision was included in GSA’s ground lease agreements, and a similar clause was included in both the standardized Outlease lease document (GSA 3486) and the General Terms of the Lease (GSA 1743). The Revocable License form (GSA 1582) also has been updated and now includes the provision referenced below. The Revocable License form did not previously contain such a clause. The clause, which is statutorily based, prohibits a

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<sup>22</sup>\*Please note these actions are CO responsibilities that are not delegated; however, the CO may delegate to the COR the filing of the documentation of these actions in the Contract Administration File.

Member of or Delegate to Congress or a Resident Commissioner from benefiting from a contract with the United States Government. The provision reads as follows:

*The provisions of 18 U.S.C. § 431 (Contracts by Member of Congress) and 41 U.S.C. § 6306 (Prohibition on Members of Congress making contracts with the Federal Government), as such provisions may be revised from time to time, are hereby incorporated in this Lease by this reference, as if set forth in full.*

GSA outlease Contracting Officers must familiarize themselves with this requirement and include this provision in all GSA outlease agreements. Any contract in violation of these statutory provisions will be considered null and void. Consultation with the Office of Regional Counsel is advised, if there are any questions regarding this clause during the contract drafting and negotiation process.

## Contract Changes

### Renewals

- Occupancy renewals or extensions are executed using either a lease or license, as applicable.
- As stated in the contract, it is the tenant's responsibility to request a renewal or extension, in writing, 120 days (4 months) prior to the expiration date. It is permissible for the CO or the COR, if the responsibility has been delegated by the CO, to contact the tenant five months or more before contract expiration to remind the tenant of the upcoming expiration.
- The tenant is required to request, in writing, a renewal or extension, using its business letterhead or suitable substitute.

***Mandated Renewal Time:*** Expired contracts with a tenant in occupancy *must be renewed within 60 days of the agreement's expiration date*. U.S. Treasury regulations prohibit USDA Finance from collecting rent payments on agreements that have been expired for more than 60 days. At the end of the 60-day period, Finance will remove all rent funds collected during the 60-day period and mark the agreement inactive until notified the contract is being renewed through the region's input in the Expired Outlease Tracker in Google Sheets and the OA renewal data is uploaded into Pegasys/BAAR. After 90 days, if the agreement has not been renewed or terminated, USDA Finance will return to the outlease tenant all rent payments received after the original expiration date.

## Outlease Term Limits

In March 2015, PBS imposed a limitation on outlease terms through provisions in the GSA Delegations of Authority Manual. The Manual provides that, absent a separate delegation of

authority from the Administrator or the PBS Deputy Commissioner, a Contracting Officer may only enter into an outlease agreement that does not exceed a five-year firm term. This five-year limitation applies to all GSA outleases. The limitation is intended to prevent an outlease from encumbering a federally owned property that may be considered for disposal in the future. If an outlease Contracting Officer believes that it is in the best interest of the Federal Government to negotiate and sign an outlease tenant to a firm-term that exceeds five years, approval from the PBS Commissioner and a delegation of authority from either the Administrator or the PBS Deputy Commissioner is required. A decision memo must be signed by the applicable regional leadership and sent to Central Office for review and approval.

## **Expansions/Contractions**

Expansion of the space assignment or a request to relinquish space requires amending the contract.

## **Relocations**

Relocations happen when the space occupied by an outlease tenant is required for use by a Federal agency. Immediately consult with the Site Acquisition Program, as the tenant may be entitled to rights under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. At a minimum, to avoid contract liability, any change in location, whether the assigned square footage changes or not, requires that the contract be amended. Make certain the exhibit in the amended contract shows the new location.

## **Unauthorized Usage**

When a tenant, inadvertently or deliberately, uses space not assigned to it or offered for use, said use is unauthorized.

- Tenant must be notified, in writing, of the unauthorized usage and that tenant will be billed for the unauthorized use, both for the amount of space used and for the amount of time.
- Should the tenant request authorization to use the space on a permanent basis and the space is available for outlease, amend the existing lease or license contract to add the space. New market based rent may be applied to the space being added, resulting in a blended rate.
  - Update the OA for new square footage and blended rate, if applicable.

## **Terminations/Expirations**

When initiating a termination action, GSA will adhere to the 30-day rule for vacating the space; that is to say, GSA will allow the tenant 30 days to vacate the premises.

- If the lessee violates the lease or license terms and conditions, the CO must specify the violation in a termination letter sent by certified mail.
- A termination letter, with a copy of the contract enclosed, sent by certified mail, is the only acceptable form of notification.

- To avoid delays during close-out, as soon as a termination date is determined, a new OA Replacement Version must be prepared with the termination date as the new expiration date and submitted to Rent Bill Management or whichever organization or person does OA Tool data entry. The Replacement OA will expire on the outlease termination date, eliminating the need to validate the outlease termination date to close out the OA.
- Enter the pertinent termination data into the Missing OA and Expired Outlease Tracker in Google Sheets to alert USDA Finance of the termination.

Expirations are the natural result of lessee allowing the contract to expire.

- The CO must acknowledge the expiration by letter to the outlease tenant to close the file.
- Request inspection from the Facility Manager to ascertain condition of space, abandoned property, proper utility shut off, maintenance of heating/cooling, return of security badges, building passes, and other lessee or licensee administration matters, and the return or destruction of sensitive information (e.g., building drawings marked sensitive).
- Property Inspection passed; notify USDA Finance by email, copying the Regional Revenue Manager, to release the security deposit, if applicable.
- No OA action is required. The OA automatically closes when the agreement expiration date passes and BAAR billing ceases.
- Enter the pertinent contract data into the Missing OA and Expired Outlease Tracker in Google Sheets to alert USDA Finance the agreement is expiring and will not be renewed.

## Security Deposits

Assessing a security deposit is standard business practice in the private real estate industry and is required by the Outlease Program for all outleases with a term longer than one billing cycle (i.e., 30 days). Requiring a security deposit, generally equal to one month's rent or as otherwise stipulated in the contract, protects GSA against future expenses related to damage to the premises.

## Security Deposit Basics

Language specifying the security deposit requirement must be included in the contract. The following is suggested language:

*Lessor acknowledges receipt of a security deposit, in the amount of the first month's rent (\$0,000.00), used to cover any monies outstanding and due GSA as a result of damage to the leased premises or other damage resulting from Lessee's use of the site or from nonperformance of a contractual obligation or duty under the terms of this Lease.*

In a license, the security deposit language may be inserted in the special conditions area. In a lease contract, the language may be inserted with the rent terms clauses. Check with regional counsel for contract language guidance specific to the region.

The preferred deposit payment method is the U.S. Treasury pay.gov website. In the “Comment” area of pay.gov, the outlease client must write “*Security Deposit*” and the Outlease agreement number, so the payment can be applied appropriately to the client’s account in Pegasys/BAAR.

If the outlease client must pay by check, the process for submitting a deposit check to USDA Finance is the same as the process for submitting a rent check, *the only exception being the outlease client must write “Security Deposit” in the memo field of the check.*

## **Deposit Refunds**

When the tenancy is about to expire or is being terminated for convenience or cause, a deposit refund should be implemented after the premises have been inspected and it is determined no damages beyond normal wear and tear have been sustained. Prior to the expiration or earlier termination of the lease or license, use the Expired Outlease Tracking sheet in Google Sheets to alert USDA Finance that the lease or license, as applicable, is being closed out or terminated and not being renewed. After a successful space inspection, the CO or the COR, if delegated authority by the CO, should notify USDA Finance by email ([FW-OutleaseDocuments.Finance@gsa.gov](mailto:FW-OutleaseDocuments.Finance@gsa.gov)), copying the Regional Revenue Manager, that the tenant does not owe GSA for damages and the deposit is to be released. Refunding the deposit takes four to six weeks from the time USDA Finance is notified until lessee receives the refund. Inform your outlease client of this timeframe to avoid any misunderstanding.

An alternative to the lengthy deposit check refund process is an offset. Using an offset, USDA Finance does not bill the outlease client for the last month’s rent; instead, it uses the security deposit to offset the last month’s rent expense. First inspect the premises to determine whether damages have been sustained. If no damage has occurred, and the outlease client agrees to the offset alternative, notify USDA Finance by email to offset the last month’s rent.

## **Partial Deposit Refunds**

In the event that some damage to the premises is found, but the cost of the repair is less than the amount of the security deposit, a partial refund must be arranged. The CO must email a justification for a partial refund to USDA Finance, copying the Regional Revenue Manager, stating the reason for the partial refund, the amount of the original security deposit, the cost of the damages, and the amount to be refunded. The justification of the partial refund must be documented in the contract administration file. Once approved by USDA Finance, a partial refund check will be sent to the outlease tenant, about four to six weeks after refund approval.

## **RWA and Deposit Refunds**

An RWA is an alternative to a partial security deposit refund. In this alternative, the tenant pays for the damages incurred by means of an RWA, while at the same time USDA Finance processes a full refund of the security deposit. This alternative allows the refund process to begin as soon as the RWA is received, speeding up the deposit refund to the tenant, while at the same time eliminating any financial risk to GSA related to the repairs.

## **Rent Collection**

Part of the outlease contract administration process is verifying that rent is paid in advance and on time. Collection of past due rent payments is an integral part of contract administration. Collection actions are a CO responsibility; monitoring the Outlease Delinquency Report and informing the CO of accounts in arrears may be delegated to the COR.

## **Collection Action**

The outlease tenant will receive a computer-generated payment reminder notice from USDA Finance if the rent payment is not received by the first of the month. The reminder letter informs the tenant that it has 30 days to pay its bill. Demand for Payment letters are sent at 60- and 90- day intervals, if the account remains in arrears.

Once the account is listed on the Monthly Outlease Delinquency Report, the CO or COR, if authority is delegated, will contact the person responsible for payment to discuss late payment. If proof of payment is provided, a copy is emailed to USDA Finance and the contract administration file is annotated. The CO or COR, if authority is delegated, monitors the account's status in the Project Cost Accounting area of Pegasys, and keeps USDA Finance informed of any outlease tenant issues, questions or concerns by emailing the [FW-OutleaseDocument.Finance@gsa.gov](mailto:FW-OutleaseDocument.Finance@gsa.gov) mail box.

Should the account remain delinquent over 60 days, the CO sends a certified letter requesting payment, along with a notice of termination. All rent must be paid in full within 30 days. USDA Finance must be provided a copy of the certified letter and notice.

Outlease tenants failing to bring their account current within 90 days are notified by the CO through a certified letter to vacate the premises, and to pay GSA in full, including all assessed IPA. If rent is paid in full within the period of time demanded, it is at the discretion of the CO whether to allow the outlease tenant to remain.

After 120 days, USDA Finance will refer the account to the Department of the Treasury for collection. Treasury may pursue the debtor for up to ten years. Treasury has the authority to offset tax refunds to satisfy the Government's claim of debt and may report the delinquent lessee to the Credit Bureaus.

After USDA Finance writes off the debt in Pegasys, the debt remains in a "memo account" while Treasury pursues collection of the debt, adding a 20% penalty to the balance. If Treasury is successful in collecting the debt, the funds are credited to GSA; USDA Finance then reverses the write-off less the penalty.

## **Eviction Action**

An eviction action may be pursued for the following reasons:

- Failure to pay rent.
- Failure to maintain required general liability coverage, with GSA/U.S. Government named as an additional insured.

- Failure to use the space as agreed in the contract; includes storage of hazardous materials, signs of living in the space, running a business versus dead storage; interference with sprinkler/fire suppression/mechanical equipment.
- Encroachment, following notice and refusal to vacate, into unassigned or unauthorized space, such as neighboring tenant's space, fire lanes, loading docks, aisles, or mechanical rooms.

Outlease tenants that refuse to pay rent or vacate the premises become squatters.

Only after the CO has pursued all contractual means to contact the outlease tenant with no response does the outlease tenant become subject to an eviction action.

The CO assembles a folder with copies of all pertinent contract documents and submits to the regional counsel's office, with a cover memo recommending pursuing eviction action.

If regional counsel agrees to pursue eviction, the eviction action is referred to the local U.S. Attorney's Office by regional counsel.

All negotiations with lessee are conducted through an assigned Assistant U.S. Attorney in consultation with GSA's regional counsel.

The U.S. Attorney's office will work with the GSA facilities management office to coordinate move-out actions.

# RENEWABLE ENERGY TECHNOLOGY AND SUSTAINABILITY

What do we mean by renewable technology as it relates to outleasing? Examples of renewable technologies that can take advantage of vacant or underutilized rooftops or land include:

- Solar panels
- Solar farms
- Wind turbines
- Geothermal.

Renewable technologies are new business endeavors for GSA. While the basic outlease principles and procedures hold true when outleasing space for these emerging technologies, working with Central Office and your regional counsel is recommended until it is determined that a new standardized procedure is required for more efficient contracting procedures, after which this section will be updated.

## SUSTAINABILITY

GSA is a leader in sustainability, from constructing new buildings using the latest sustainability techniques and technologies to recycling and composting trash. The Outlease Program supports GSA's sustainability program by encouraging outlease tenants to participate in GSA's recycling of office trash and, if a food service outlease tenant, by recycling paper, glass and plastic, and by composting food trash. We also encourage outlease tenants to use no-cost/low- cost energy saving devices and techniques, such as:

- Water flow restrictors;
- Energy-efficient lamping;
- Recycled products, whenever possible;
- GSA recycling and composting programs; and
- "Power Down, Power Off" events.

Discussion of including sustainable practices into their tenancy begins with the outlease negotiations, but should be an ongoing dialogue with the outlease tenant, as energy reductions in outleased space help GSA Facility Managers achieve their overall energy-reduction goals for their buildings.



# APPENDIX

## FORMS

**The Outlease Checklist** is a handy reference to help make certain all steps in the process for a typical outlease action has been followed. The Outlease Checklist can be found [here](#) at the Outlease Program Google site.

**The Request for Approval of Outlease Space Alterations Template** is based on a Region 7 form and may be used by all regions that do not have a form to document and facilitate the request for outlease space alterations. The form can be found [here](#) at the Outlease Program Google site.

**The Master Antenna Contracts** were created in response to section 6409 of the Middle Class Tax Relief and Jobs Creation Act. The law required GSA to create master forms for use by landholding executive agencies when initiating an antenna outlease on their buildings or land. The forms are posted on gsa.gov [here](#).

**Application for Transportation, Utility Systems, Telecommunications and Facilities on Federal Lands and Property (SF299)** was also created in response to section 6409 of the Middle Class Tax Relief and Jobs Creation Act. The application form can be found [here](#).

**The Clarification of Outlease Rent Rate Development memorandum** confirmed that outlease rent rates are market based rates and not rates established by or subject to Pricing Policy. The policy memorandum can be found [here](#).

**The Report of Excess Form** (SF-118) can be found in the GSA Forms Library [here](#).

### Revenue Source Codes

Source Code	Description
4211	Indefinite Authority - Outleases - Coop Use Act
4212	Outleases - Government Owned Space
4213	Outleases - Government Leased Space
4214	Outleases- Revocable Outlease Licenses
4216	Outleasing - Section 412
4217	Indefinite Authority - Antenna Outleases - Coop Use Act
4406	Indefinite Authority - Historic Building Outleases

## MASTER DEVELOPER CONTRACTS

Master developer contracts have been used to create food courts, such as the ones in the Pavilion at the Old Post Office Building and the International Trade Center in the Ronald Reagan Federal Building, both in Washington, DC. Such contracts have also been used to outlease temporarily other unique space that does not have an immediate use to GSA, such as in the Railroad Retirement Building in Chicago. As with all real estate ventures, some have been more successful than others and there is debate over whether or not food courts will retain their popularity. A master developer contract is, nevertheless, an approach an asset manager can consider when looking for creative outlease strategies for vacant or underutilized space.

There are no prescribed rules governing whether to use a master developer. The decision to use this type of contract should be based upon factors such as asset location, local real estate market conditions, economic trends, and the amount of vacant or underutilized space available for multi-use. As with any outlease, use of this type of contract must be cleared by other programs that may seek to use the space, such as concessions or the Randolph-Sheppard Act. Certain conditions may exist that promote the use of a master development contract, such as lack of BA-54 funds to develop the space to a marketable condition, lack of BA-61 funds to guarantee the future maintenance of the space or the size of the space or building may be so large that existing human capital resources or technical expertise do not exist in the region to pursue development.

### **What is a Master Developer Contract?**

It is a contract made with a single entity that will be responsible for developing a master plan for the space, subleasing smaller blocks of space to other tenants and day-to-day management and operation of the entire outleased facility. The master developer contract usually involves large blocks of space in the existing GSA inventory or space in public buildings to be constructed. In either case, a multi-use plan is developed and evaluated early in the planning stages and later implemented with the master developer to prepare the tenant mix and market the project. Project planning, review and budgeting must be done in coordination with the Government's other planned uses of the public building. Each master developer project is unique and requires individual attention.

### **Considerations Based on Proposed Use**

A common use of the master developer contract has been food courts. The developer has undertaken the task of preparing the space to host individual food venues, provide seating for patrons and provide for the constant upkeep of both kitchen and seating areas. Standard industry practices dictate that each food venue has a self-contained and secured business area that houses the kitchen, customer service counter and other support areas, such as an office or employee lockers. The developer must determine (as GSA requires or suggests) how many food venues ("concepts" in restaurant lingo) the subject space will support. This is important to determine prior to executing the contract because the expense of upgrading

infrastructure to accommodate multiple concepts may be financially prohibitive for the developer.

Delivery of utilities is a key infrastructure component. Water, gas and electric supplies must be assessed to determine if upgraded service is required. GSA's technical staff of architects and engineers must be engaged in the review process to first determine the nature of existing services to the space and then to determine if upgrades must be made. Many concepts do not require gas for cooking and are powered solely by electricity. If that is the case, individual users may require 600 amp service to the subdivided space. Most concepts, regardless of size, will require 400 amp service. Consider that a typical house may have only 100 or 200 amp service at most. All of these individual "loads" of electricity demand must be added up to determine the total amount of service required from the electric company. Gas supplies for cooking equipment work much the same way. A typical commercial service feed may only be a 2"-width supply pipe, but the cooking requirements of commercial restaurant equipment may require that the gas company upgrade to 3" or 4" service to supply multiple venues. Future expansion or concept mix should also be considered when upgrading services.

Separately metering of utilities to each concept is also a standard practice. This should be given high priority when considering a developer's plan. In the past, it was common for a building owner to rely on the "pro-rata share" method of billing tenants for utilities. But utility services have grown dramatically more expensive and conservation has become a priority. For those reasons, and also the fact that each concept prefers to control and monitor its own utility consumption, separate meters are highly preferred.

It is still common for water to be shared and billed by the local municipality from one meter. In this case, it must be required of the developer to separate the outlease space usage from the building to guarantee accurate pro-rata share billings, and that GSA does not subsidize the water usage.

Current and future Federal use of the space should also be considered. The developer can make these assessments, but the findings must be reviewed by the appropriate GSA staff for feasibility.

## THE MILLER ACT

In 1935, Congress passed the Miller Act, re-codified in 2002 as subchapter III - Bonds of chapter 31 of subtitle II – Public Buildings and Works of title 40 of the United States Code, 40 U.S.C. §§ 3131 - 3134, eliminating the right of a subcontractor or supplier to impose a mechanic's lien against Federal property in connection with public building or public work construction projects. The Miller Act requires that all contractors obtain separate performance and payment bonds prior to award of any contract for the construction, alteration or repair of any Federal building exceeding \$100,000. (FAR 28.102-1 and 28.102-2) The payment bond covers subcontractors and suppliers of material who have direct contracts with the prime contractor. These are called first-tier claimants. Subcontractors, and material suppliers who have contracts

with a subcontractor, but not those who have contracts with a supplier, are also covered. These are called second-tier claimants. Anyone further down the contract chain is considered too remote and cannot assert a Miller Act claim.

The amount of the performance and payment bonds must be 100% of the original contract price plus 100% of any price increases. The amount of the payment bond must not be less than the amount of the performance bond. (FAR 28.102-2(b)(1) and (2)) For contracts greater than \$30,000, but not greater than \$100,000, the CO must select two or more types of payment protection from the following: payment bond, irrevocable letter of credit, tripartite escrow agreement, certificates of deposit, U.S. bonds or notes, certified or cashier's checks, bank drafts, money orders, or currency. The contractor must then submit to GSA one of the payment protections selected by the CO. (FAR 28.102-1(b)(1))

## OUTLEASE AUTHORITIES

- 40 U.S.C. § 543
  - Disposal of surplus real property by lease at fair market value
  - Property may be leased by a competitive or negotiated process
- 40 U.S.C. § 581(h)
  - Allows outlease of space and retention of proceeds
  - Can charge local market commercial rates
  - Limited to certain types of activities: cultural, educational, recreational, commercial
  - Limited to certain areas of public buildings: major pedestrian access levels, courtyards and rooftops
- Adaptive Use - Section 111 of the NHPA (54 U.S.C. §§ 306121 and 306122)
  - Broad authority to outlease unused portions of historic properties
  - Allows proceeds to be retained for two years, after which unobligated proceeds are returned to Treasury
  - Use limited to historic properties
  - Proceeds can only be used on property generating the outlease revenue or other properties listed in the National Register of Historic Places.
- Subleasing Authorities - 40 U.S.C. § 585(b)
  - Allows use of underutilized Government leased space
  - Can keep proceeds to offset base lease costs
  - Reduces vacant space measure
  - Competition is required
- Sites and buildings – 40 U.S.C. § 581(d)
  - Allows use of sites and buildings until needed
  - Rent rate is market based
  - No competition required if outlease is to former owner or former owner's tenant in possession and lease is negotiated in connection with acquisition of the property
  - Allows retention of proceeds
- Section 412 – Sec. 412 of P.L. 108-447, 118 Stat. 3259

- Grants very broad real estate conveyance authority
- Allows retention of proceeds, but requires Congressional authorization to spend proceeds

## PERMIT, LICENSE OR LEASE?

### Permits

Permits are not used by the Outlease Program, as the sole function of a permit is to grant permission to access a Federal property. Discussion of permits is included here to dispel confusion as to whether a permit is an appropriate document to use for outleasing.

Permits grant approved applicants permission to be on Federal property for a specific purpose and period of time. Permits grant occasional use of GSA space for cultural, educational or recreational activities, but not commercial. Individuals or groups seeking to use Federal property for activities for which permits can be issued to grant access are not charged a use fee. However, charges must be levied for any expense GSA may incur related to the activity, such as custodial services or security fees. Facility Managers or other GSA staff handling requests for these activities should consult with their regional counsel if unsure about whether a requested activity is permissible and under what terms.

### License

For short-term activities requested by commercial entities, a license is the preferred contract vehicle. A license gives permission of the property owner to an individual or an entity to use GSA real property for a specific purpose. Unlike a lease, a license does not transfer an interest in the property. Examples of commercial, short-term activities are a farmers market operated by a commercial vendor or a commercial photo shoot. A market-based use fee should be charged, in addition to any expense incurred by GSA. While it is not legally required that a CO sign a license, the Outlease Program requires CO review and signature of the license in recognition of the complexity inherent in most outlease actions and to minimize risk to the Government.

### Lease

A lease is a legal contract and, thus, enforceable by all parties. A lease gives the tenant exclusive right to occupy real property for a fixed period of time for a given fee. A lease transfers to the tenant a leasehold interest in the real property and, unless provided otherwise in the lease, is transferable and irrevocable. A lease should be used for activities that are of a longer duration or more complex in nature, e.g., an antenna installation, than those activities covered by a license. A rent fee based upon market rates must be charged, as well as

reimbursement for any costs GSA incurs directly related to the tenant's occupancy and activities. Leases can only be signed by a CO.<sup>23</sup>

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<sup>23</sup>See previous sections for specific information on Antennas, Commercial Filming and Photography and Restaurant outleases.

# GSA TECHNICAL GUIDE FOR THE INSTALLATION OF RADIO-FREQUENCY (RF) ANTENNA SYSTEMS

## **1. Purpose.**

Radio-frequency (RF) transmitting systems may pose potential health and safety hazards to GSA workers, contract workers, tenants and the general public in addition to potentially interfering with existing systems. The primary purpose of this Technical Guide is to inform GSA project managers, GSA outlease officers and vendors of these health, safety and operational concerns and mitigate the associated risks with antenna installations. All antenna systems, both transmitting and receiving, may also damage GSA property during installation, use and maintenance. The Guide addresses key concerns in these areas as well.

## **2. Cancellation.**

This Guide cancels and replaces EXXX.1001 "Environmental Management Radio-Frequency Electromagnetic Field Safety Program Technical Guide" dated 10-11-2001

## **3. Biological Effects of RF Radiation.**

It has been known for many years that exposure to high levels of RF radiation can be harmful due to the ability of RF energy to heat biological tissue rapidly. This is the principle by which microwave ovens cook food, and exposure to very high RF power densities can result in heating of biological tissue and an increase in body temperature. Tissue damage in humans could occur during exposure to high RF levels because of the body's inability to cope with or dissipate the excessive heat that could be generated. Under certain conditions, exposure to RF energy at power density levels of 1-10 mW/cm<sup>2</sup> and above can result in measurable heating of biological tissue (but not necessarily tissue damage). The extent of this heating would depend on several factors including: radiation frequency; size, shape, and orientation of the exposed object; duration of exposure; environmental conditions; and efficiency of heat dissipation.

Two areas of the body – the eyes and the testes – are known to be particularly vulnerable to heating by RF energy because of the relative lack of available blood flow to dissipate the excessive heat load (blood circulation is one of the body's major mechanisms for coping with excessive heat). There are situations, particularly workplace environments near high-powered RF sources, where recommended limits for safe exposure of human beings to RF energy could be exceeded. In such cases, restrictive measures or actions may be necessary to ensure the safe use of RF energy.

## **4. Regulatory Background.**

The Occupational Safety and Health Administration (OSHA) regulates worker exposure to RFR. Reference [1] sets a maximum exposure limit for "general" occupational exposure, such

as building maintenance. Reference [2] sets a limit for workers engaged in construction. The OSHA standards are quite old and the exposure limits developed by the Institute of Electrical and Electronics Engineers (IEEE) in reference [3] are considered the most current guidelines for both occupational and non-occupational exposure to RFR.

The National Environmental Policy Act of 1969 (NEPA) (reference [4]) requires agencies of the Federal Government to evaluate the effects of their actions on the quality of the human environment, which includes, but is not limited to, radio-frequency (RF) transmitting systems. In order to meet its responsibilities under NEPA, the Federal Communication Commission (FCC) has developed requirements for evaluating the environmental impact of human exposure to RF energy emitted by FCC-regulated transmitters and facilities. The FCC has adopted the reference [3] IEEE exposure limits and issued "Bulletin 65" (reference [5]) as compliance guidance.

GSA NEPA policy (reference [6]) allows transmitting systems to be "categorically excluded" from the preparation of an Environmental Assessment (EA) or Environmental Impact Study (EIS) provided no "extraordinary circumstances" exist.<sup>24</sup> The existence of an extraordinary circumstance requires preparation of an EA or EIS. In order to determine such exclusion GSA must review the Radio-frequency Interference (RFI) Certification Report and Radio-frequency (RF) exposure assessment required in Section 6.2 of this Guide. GSA has adopted the FCC Bulletin 65 (reference [5]) as our guideline for making such determinations.

Note 1: Transmitting systems are not automatically excluded from an EA or EIS, but rather may be excluded if review under a "checklist categorical exclusion"<sup>25</sup> finds no "extraordinary circumstances".

## 5. Scope.

This overall Technical Guide applies to all antennae and antenna systems installed and operated on or in GSA-owned or GSA-controlled facilities. The Guide applies to antenna space outleased to the private sector or leased to federal agencies and antenna systems used by GSA. The exposure portions of this Guide apply to all transmitting systems.

It should be noted that the RF spectrum is formally defined in terms of frequency as extending from 0 to 3000 GHz and the IEEE (reference [3]) defines the range as 3 KHz (0.3 MHz) to 300 GHz (300,000 MHz). The FCC exposure guidelines (reference [5]) adopted by GSA apply to the frequency range of 3 KHz (0.3 MHz) to 100 GHz (100,000 MHz).

## 6. Definitions

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<sup>24</sup>Transmitting systems are not automatically excluded from an EA or EIS, but rather may be excluded if review under a "categorical exclusion checklist" finds no "extraordinary circumstances".

<sup>25</sup>Installation of antennae consistent with GSA Bulletin FPMR D-242, "Placement of commercial antennas on Federal property" 5.4 (n).



- A. Federal Communication Commission (FCC). The FCC is responsible for managing and licensing the electromagnetic spectrum for commercial users and for non-commercial users including state, county and local governments. This includes public safety, commercial and non-commercial fixed and mobile wireless services, broadcast television and radio, satellite and other services. Systems regulated by the FCC must be licensed.
- B. National Telecommunications and Information Administration (NTIA). The NTIA manages the federal use of the radio-frequency spectrum. Agencies intending to operate in government frequency allocations and non-federal entities intending to operate in shared (government and non-government) frequency allocations must obtain a NTIA Radio-frequency Authorization (RFA) prior to operation.
- C. Antenna Installation Owner. The term "antenna owner" is used in this Guide to collectively refer to the following entities that install and operate antennae on or in GSA space:
  - a. Non-federal Entities. GSA provides antenna system space and other services to non-federal entities (private sector, state, municipal and local governments) in return for a fee. These contracts are termed "outleases" and the non-federal entity is termed the "lessee". Lessees own the antenna equipment, operate in non-government frequency allocations, and are regulated by the FCC.
  - b. Tenants. Tenants refer to federal customer agencies that enter into leases with GSA. These agencies generally operate in the government frequency allocation, which is regulated by NTIA. Tenants may also contract with private sector vendors for commercial communication services - which is regulated by the FCC. Regardless of the contractual relationship between tenants and their vendors the tenant is considered the "owner" of the installation for the purposes of this Guide.
  - c. GSA. GSA also provides antenna systems both for GSA use and on the behalf of building tenants (such as building-wide Wi-Fi networks). As with tenants, GSA is considered the owner of these systems.
- D. Maximum Permissible Exposure (MPE): The MPE is the highest radio-frequency emission to which a person may be exposed without incurring an established adverse health effect and with an acceptable margin of safety. Refer to IEEE Std C95.1 (reference [3]) for a detailed definition.
- E. Occupational Exposure. Occupational exposures apply to employees exposed as a consequence of their employment and when those employees have been made fully aware of the potential for exposure and can exercise control over their exposure. Typical employees in this category would be on-site GSA Facility Managers and operations and maintenance contractors that have been properly notified and trained. Occupational exposures are considered "controlled exposures". Employees that are exposed as a result of incidental passage through a location (such as window washers, roof inspectors, etc.) fall under this category (a higher MPE than that for the general public) as long as the employee has been made fully aware of the potential for exposure and can exercise control over his or her exposure by leaving the area or by some other appropriate means.

While GSA has a duty to disclose the existence of potential RFR exposures to contractors it is the contractors' responsibility to train and protect their employees. Contractors so notified are also responsible for communicating potential RFR exposure information to their subcontractors.

The areas to be considered for occupational/controlled exposure are limited to GSA buildings (interior and exterior) and GSA property.

- F. General Population Exposure. Members of the general public always fall under this category when exposure is not employment-related.

Employees that are exposed as a consequence of their employment fall under this category when they may not be made fully aware of the potential for exposure or cannot exercise control over their exposure. An example of this is a building appraiser who either is unaware of potential exposures or is aware but does not fully understand the actions needed to avoid over- exposure. Signage is not considered adequate to ensure the general public is "fully aware" of the potential exposures. General population exposure is considered "uncontrolled exposure".

The areas to be considered for general population/uncontrolled exposure are GSA buildings (interior and exterior), GSA property *and off-site locations that may be radiated*.

## 7.1 Requirements - All Antenna Systems

The following is applicable to all antenna system installations:

- A. All antenna owners shall provide installation drawings for proposed antennae. Roof penetrations must not void the roof warranty. Installation drawings must be approved by GSA prior to the commencement of work.
- B. Access to roofs, facades and other antenna installation locations shall be coordinated with the GSA building management staff.
- C. GSA property shall be protected during antenna and wiring installations and during maintenance and adjustments. Specific attention shall be given to protecting roofs and roof membranes. Workers shall stay on roof access paths to the extent feasible and protect work areas from damaging the roof, particularly in antenna installation areas.
- D. Where photo-voltaic (PV) panels or membranes exist the following shall apply:
  - a. Antenna systems shall not cast shade of any amount for any length of time onto the PV surfaces. Even a shadow the width of a wire can shut down a large portion of the collection grid.
  - b. Workers shall not walk on PV membranes.

Antenna owners, installers and maintainers are advised that PV systems generally cannot be fully de-energized and should be considered an electrical hazard at all times, including during the nighttime hours.

- E. Antenna systems shall be installed in accordance with the version of the International Building Code (IBC) (reference [7]) current at the time of the outlease award, lease execution, or approval (GSA antennae). The antenna owner shall certify in writing that the installation meets the wind load requirements of the IBC. Electrical systems shall be installed in accordance with the version of NFPA 70 (reference [8]) current at the time of outlease award, lease execution or approval (GSA antennae).

- F. If the building is considered historic the antenna installation shall be approved by the regional historic preservation officer. This approval applies to both the physical location and the installation method.
- G. The antenna owner assumes full responsibility for worker safety including, but not limited to, fall protection, electrical safety, RFR safety and exposure to hazardous materials.
- H. An inventory tag shall be affixed to all antennae. The tag shall be readily visible and be UV and weather resistant. For outleased antennas the inventory number shall be assigned by the GSA outleasing office. Antennas installed by federal tenants and GSA shall be assigned an inventory number by the regional GSA National Computerized Maintenance Management System (NCMMS) office.

## 7.2 Requirements - Transmitting Antennae

In addition to the requirements of paragraph 6.1, the following additional requirements apply to all transmitting antennae installations:

- A. Prospective telecommunication companies (outleases) must provide a copy of their current FCC license to GSA prior to any contractual agreement. The license must specify the license expiration date. No outlease contract will be let for a company with an expired FCC license.
- B. Federal tenants must provide a copy of an NTIA Radio-frequency Authorization (RFA) or FCC license (whichever is applicable) to GSA as part of the installation submittal package. Refer to reference [9] for RFA specifics.
- C. The antenna system owner shall, at its own expense, obtain written certification, commonly known as a Radio-frequency Interference (RFI) Certification Report, that its equipment and installation comply with FCC radio frequency (RF) regulations and that the new installation will not interfere with existing antennas. The entire report and certificate must be provided to the Contracting Officer (CO) or Contracting Officer's Representative (COR) within two business days after receipt.
- D. Any resulting interference issues shall be corrected by the system owner.
- E. The antenna system owner shall, at its own expense provide a Radio-frequency (RF) exposure assessment in accordance with references [5]. The assessment may be based on predictive methods, field measurements or a combination of the two. The exposure assessment must be reviewed and accepted by the applicable GSA regional Environmental, Safety and Health office.
- F. Where areas exceed the MPEs for occupational/controlled exposure as determined by reference [5], the antenna system owner shall reduce such levels where feasible. Areas that cannot feasibly be reduced below the occupational/controlled MPE, shall be posted by the antenna system owner in accordance with reference [10].
- G. Antenna systems that result in exposures exceeding the MPEs for general public/uncontrolled exposure locations as determined by reference [5] shall be modified by the antenna system owner to ensure RF exposures are below the MPEs. Note: Posting of areas exceeding the MPE is not allowed in uncontrolled locations.

## 8. References.

1. U.S. Department of Labor, Occupational Safety and Health Administration (OSHA), Title 29 Code of Federal Regulations Part 1910 "Occupational Safety and Health Standards", Standard 1910.97 "Non-ionizing radiation".
2. U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) Title 29 Code of Federal Regulations Part 1926 "Safety and Health Regulations for Construction", Standard 1926.54 "Non-ionizing radiation".
3. American National Standards Institute (ANSI) / Institute of Electrical and Electronics Engineers (IEEE), "Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields", 3 kHz to 300 GHz," ANSI/IEEE C95.1-1992
4. National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321)
5. Federal Communications Commission, Office of Engineering & Technology, OET Bulletin 65 Edition 97-01 August 1997 "Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields"
6. GSA Public Buildings Service NEPA Desk Guide - 1999
7. International Code Council, International Building Code (IBC)
8. National Fire Protection Association (NFPA) National Electrical Code - NFPA 70
9. National Telecommunications and Information Administration (NTIA) Manual of Regulations and Procedures for Federal Radio Frequency Management (Redbook) September 2015
10. American National Standards Institute (ANSI), "American National Standard Radio Frequency Radiation Hazard Warning Symbol," ANSI C95.2-1982.

# Training & Warrants

On January 22, 2020, the Assistant Commissioners for the Office of Portfolio Management and the Office of Leasing jointly issued a [memorandum](#) that provides policy and implementation guidance for the Leasing Warrant with an Outleasing specialization for the PBS National Outlease Program.

The National Outlease Program identified the need to develop a specialized supplemental warrant curriculum to enable qualified Leasing Contracting Officers (LCOs) to execute outlease agreements. The training program establishes competencies for specialty-type outlease actions (e.g., antennas, retail and parking) and the outlease billing process. In addition, this program helps PBS train a sufficient number of warranted LCOs to cover the workload of the outlease program. Regional outlease warrants are intended to provide PBS with specialized leasing professionals who can execute agreements with non-federal entities.

To earn a supplemental outlease warrant, the applicant must hold a current regional leasing warrant (minimum LCP I), in addition to at least one-year of contracting experience within the last three years. Nominees also must have completed all supplemental outlease training requirements. The outlease warrant thresholds and base requirements are as follows:

1. Simplified (LCP Level I) - Up to \$250,000 average net annual rent
2. Intermediate (LCP Level II) - Up to \$10,000,000 total contract value
3. Senior (LCP Level III) - Unlimited

The below chart details the specifics of the training curriculum required for a supplemental outlease warrant. Additional information on the training curriculum can be found on the [Outlease Program Google Site](#).

<u>Class Number</u>	<u>Class Title</u>	<u>CLPs</u>	<u>Class Description</u>
FCN 489	Outlease Basics	1	This is an introductory course providing basic overview information on conducting outlease actions.
FCN 490	Outlease Financial Management	2	This course introduces the student to the financial reports generated for Outleasing by Pegasys and the Outlease Financial dashboard.
FCN 492	Utilities and RWAs	1	This course provides direction on how to obtain utility rates for different types of outleases and the two types of RWAs specific to outleasing.
FCN 493	VCR, VCSS & Pay.gov	1	Course covers the Vendor Customer Self Service System (VCSS) outlease customers use to see their bill, the Vendor Code Request (VC) needed to obtain and secure the customer's TIN/EIN and rent and RWA

			payment using pay.gov
FCN 494	Movie Production & Special Events	1	This course focuses on specific processes unique to movie production and other special events authorized under 40 USC 581(h) (Public Buildings Cooperative Use Act). Students will learn the forms and procedures needed, in addition to the usual outlease contracting and data entry procedures.
FCN 495	Outlease Data Entry Into GSA Systems	1.5	This course will walk attendees through the GSA systems and data entry process required to complete an outlease agreement.
FCN 496	Contracts & Contract Admin in Outleasing	2	This course goes over the best practices of contract administration for outleases, as well as Contracting Officer and Contracting Officers Representative responsibilities.
FCN 497	Outleasing and the Cooperative Use Act - 40 USC 581(h)	2	The class covers the law, the four categories of authorized actions and how to conduct outlease actions in accordance with the law.
FCN 498	Outleasing and Historic Buildings	1	This class addresses outleasing in historic buildings and the associated BA64 Program. Students will understand the legal requirements affecting outleasing in historic buildings, as well as how the revenue is used to benefit the buildings.

## SUMMARY OF BA64 PROGRAM

Section 111 of the National Historic Preservation Act of 1966, as amended, authorizes federal agencies to lease space to non-federal tenants in historic federally owned buildings and retain the revenue for preservation purposes, such as repair, restoration, maintenance, documentation, and related expenses associated with historic properties. This provision is intended to support federal ownership and stewardship of historic properties. Revenue generated under the authority of Section 111 is deposited in BA-64 of the FBF, where it must be obligated within two fiscal years following the fiscal year in which it was earned. These funds may only be used on properties listed in the National Register of Historic Places or National Register-eligible properties that earn revenue under Section 111.

## CULTURAL STEWARDSHIP PROGRAM OBJECTIVES AND FUND USES

The objectives of the program include:

- Retaining historic buildings in GSA inventory and enhancing the customer agency workplace experience
- Providing incentive to outlease excess space in historic buildings
- Meeting legislative intent of Section 111, promoting the viability of federal historic buildings
- Leveraging private funding through BA-64 funds to promote the viability of federal historic buildings
- Preserving ornamental features and artistic finishes in historic buildings
- Increasing FFO

Toward meeting these objectives, BA-64 funds may be used for:

- Emergency preservation
- Endangered buildings: work urgently needed to prevent or correct damage to a building or improve its economic viability
- Historic building repair, restoration or maintenance
- Projects not funded through BA-61, BA-54 or BA-55. (BA-64 funds may not be used to augment prospectus-level projects)
- Conservation of historic art in historic buildings

## PROJECT SELECTION CRITERIA

- National Register-listed or BA-64 earning buildings as stipulated in authorizing legislation
- BA-64 revenue producing buildings and regions earning outlease funds receive preference
- Projects consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties
- Projects in historic building preservation zones (character-defining spaces and features documented in Building Preservation Plan or National Register nomination documentation)
- Greater priority for significant buildings and work affecting high visibility, architecturally significant areas
- Greater priority for projects in spaces accessible to the public
- Urgency: work needed to prevent loss of original historic materials or viability
- Legacy building viability enhancement
- Projects leveraging private funds or other project funding receive preference
- Regional leadership and team support
- Worthy preservation projects not likely to be funded under BA-61, BA-54 or BA-55

## PROJECT SELECTION

- Annual solicitation sent to regions by Federal Preservation Officer
- Regions develop project submissions with the RHPO, confirming buildings, projects and submission documentation meet all requirements
- PBS Regional Commissioners concur in their projects and transmit them in prioritized order in their project funding requests
- BA-64 Project Review Committee evaluates each project according to BA-64 funding criteria and within the context of the national historic inventory need. Panel representatives rotate each year to tap all of the GSA talent pool. Each panel includes two RHPOs or historic preservation specialists, the chief cost estimator, a Project Delivery zonal director, the BA-64 budget analyst, the Portfolio outleasing manager, and the Central Office program manager
- Federal Preservation Officer evaluates regional project submissions and concurs in the evaluation panel project award recommendations



## GLOSSARY

Term	Definition
<b>Antenna</b>	An antenna is a specialized <a href="#">transducer</a> that converts radio frequency (RF) fields into alternating current (AC) or vice-versa. There are two basic types: the receiving antenna, which intercepts RF energy and delivers AC to electronic equipment; and the transmitting antenna, which is fed with AC from electronic equipment and generates an RF field. Most common on GSA assets are rooftop-installed transmitting antennas. See also Antenna Towers.
<b>Antenna Collocation</b>	The communications industry's term for the construction of a new antenna or tower, or the mounting or installation of an antenna on an existing tower, building or structure, for the purpose of transmitting or receiving, or both, RF signals for communications purposes. It includes any fencing, equipment, switches, wiring, cabling, power sources, shelters, or cabinets associated with that antenna or tower.
<b>Antenna Towers</b>	GSA uses the generally accepted term for towers used in U.S. broadcast engineering, which defines an antenna tower as an antenna structure attached to the ground.
<b>BAAR</b>	Billing And Accounts Receivable system within Pegasys, where billing of outlease accounts is conducted.
<b>BA-61</b>	The budget account for building operations and where outlease revenue is deposited, with the exception of outlease revenue earned under section 111 of NHPA.
<b>BA-64</b>	The budget account established for GSA assets listed in, or eligible for listing in, the National Register of Historic Places. In accordance with section 111 of the National Historic Preservation Act, outlease revenues generated under this authority are placed in BA-64 for use in the repair and maintenance of GSA historic assets.
<b>CICA</b>	Competition in Contracting Act – the law requiring competition when the Government acquires goods or services.

<b>Court properties or facilities</b>	In the Filming Section, “Court properties or facilities” refer to the interiors and exteriors of buildings that are assigned to the judicial branch.
<b>Dipole Antennas</b>	Antenna consisting of two identical rod conductors, with the signal from the transmitter applied between the two halves of the antenna. Often used alone as antennas, notably in traditional “rabbit ears” television antennas. Dipole antennas are generally more efficient than whip antennas; the total radiated power and the radiation resistance is twice that of a whip antenna.
<b>EIN</b>	Employer Identification Number issued by the IRS to businesses and non-profits for tax purposes
<b>Effective Date</b>	The date in the contract identifying the beginning of the term of the contract.

Term	Definition
<b>Equipment</b>	In the Filming Section, the term “Equipment” includes television, photographic, film, or video cameras or transmitting television equipment, including radio remotes, props, sets, lights, electric and grip equipment, dolly tracks, screens, or microphone devices, and any and all production related materials
<b>Expiration Date</b>	The date in the contract identifying the end of the term of the contract.
<b>Eviction</b>	The legal removal of a lessee from the property
<b>FAR</b>	Federal Acquisition Regulation
<b>Filming</b>	The taking of motion pictures or still photography or the use and operation of television cameras or transmitting television equipment, including radio remotes and any preparatory activity associated therewith. Filming includes the making of feature or documentary films, television serials, webcasts, simulcasts, or specials.

<b>Finance</b>	In this Guide, refers to USDA Finance in Fort Worth, TX (R7), a shared service provider contracted to provide GSA financial accounting services.
<b>GREX</b>	The GSA database application containing lease acquisition and outlease contracts and supporting contract documentation.
<b>Holding</b>	In the Filming Section, “holding” means the temporary accommodation of cast or crew members and other individuals associated with a production in a space in which filming is not taking place. “Holding” may include the space in which an independent company provides meals or catering services to cast or crew members and other individuals associated with a production.
<b>Lease</b>	A lease is a legal contract and, thus, enforceable by all parties. It gives the right to possession by the tenant for a fixed period of time for a given fee. A lease should be used for activities that are of a longer duration or more complex in nature, e.g., an antenna installation, than those activities covered by a permit or license. CO signature is required.
<b>Lessee</b>	A person who has possession of real or personal property under a lease. When real estate is leased, the lessee may sometimes also be referred to as the tenant.
<b>Leasehold</b>	Property held under a lease for a stated period and under specified terms and conditions.
<b>License</b>	Gives permission of the owner to an individual or an entity to use real property for a specific purpose. Unlike a lease, a license does not transfer an interest in the property. The license agreement is personal to the licensee and any attempt to transfer the license terminates agreement. A license is revocable and can be either exclusive or non-exclusive.
<b>Licensee</b>	The holder of a license issued by a warranted CO or another agent of the owner.

Term	Definition
<b>Master Developer Lease</b>	Lease with a person or firm typically for development of a retail space such as a food court. Developer subleases and manages sublease tenants to maximize revenue and ensure efficient business operations.
<b>Master Lease</b>	Controlling lease under which a lessee can sublease the property for a period not to exceed the term of the master lease
<b>Monopole Antenna</b>	A class of radio antenna consisting of a straight rod-shaped conductor, often mounted perpendicularly over some type of conductive surface, called a ground plane. Common types of monopole antenna are the whip, helical, random wire, mast radiator, and ground plane antennas.
<b>NEPA</b>	National Environmental Policy Act of 1969, as amended
<b>NHPA</b>	National Historic Preservation Act of 1966, as amended
<b>Occupancy Agreements</b>	The Occupancy Agreement (OA) captures the business terms governing the relationship between GSA and the Federal customer agency for a specific space assignment. In Outleasing, the Outlease OA is used to convey the contract's financial information into Pegasys/BAAR.
<b>OA Tool</b>	PBS application used to create and maintain all versions of OAs.
<b>OARS</b>	The Outlease Accounts Receivable System. This accounting system was replaced by Pegasys/BAAR in November 2015.
<b>PAD</b>	Pre-Authorized Debit program, which allowed outlease rent payments to be debited from tenant checking account. PAD was not compatible with BAAR and was phased out prior to full BAAR implementation for the Outlease Program in 2015.

<b>Pay.gov</b>	Online system outlease tenants may use to pay their rent payments by credit card.
<b>PCAS</b>	The Project Cost Accounting System within BAAR where outlease account information resides.
<b>Permit</b>	Permits grant approved applicants permission to be on Federal property for a specific purpose and period of time. Permits grant occasional use of GSA space for cultural, educational or recreational activities. Individuals or groups seeking to use Federal property for activities for which permits can be issued are not charged a use fee. Charges must be levied for any expense GSA may incur related to the activity, such as custodial services or security fees.
<b>Photography</b>	The taking of moving or still images.
<b>REPO</b>	Regional Environmental Protection Officer
<b>RHPO</b>	Regional Historic Preservation Officer

Term	Definition
<b>REXUS</b>	GSA's real estate inventory database, which generates Outlease contract number, while at the same time capturing the space assignment.
<b>RFI</b>	Radio Frequency Interference is any undesirable electrical energy with content within the frequency range dedicated to RF transmission. All antenna outlease contracts require lessees to provide certification that RFI is not created by their antenna installation.
<b>Rigging/de-rigging</b>	The loading or unloading of any shooting or production-related equipment, including props, sets, electric, and grip equipment, at any location, time and date where film or production is not occurring. This term has the same meaning as the commonly used term "prepping/wrapping."

<b>RWA</b>	Reimbursable Work Authorization form for the procedure by which lessees can reimburse GSA for work performed, e.g., minor space renovations and repairs, or for recurring services, e.g., janitorial, utilities. Type "C" (recurring) and "D" (non-recurring) RWAs are specific to outleasing.
<b>Scouting</b>	The act of viewing, assessing and photographing locations for filming or photography during pre-production or production, including still photography, feature films, television series, mini-series, and documentaries.
<b>Security Deposit</b>	Money set aside from the payment of rent that a landlord requires a tenant to pay for use should the tenant cause damage to the premises above normal wear and tear. The security deposit must be paid in advance along with the first month's rent, as required by U.S. Treasury regulations. The security deposit, or a portion thereof, is returned after the Close-Out Inspection, unless retained by the owner to cover damage to the premises caused by the tenant.
<b>Shooting</b>	Refers to filming on properties, in the interiors or on exteriors of buildings or facilities, under the jurisdiction, custody or control of GSA.
<b>Sublease</b>	A lease granted by one who is already a lessee of the property, where authorized.
<b>SWA</b>	The obligating document for a reimbursable security work authorization used for FPS security charges for the provision of security services. SWA forms are completed by an Office of Mission Assurance regional liaison.
<b>Termination</b>	Cancellation of a contract by the lessor. Termination may be for the convenience of the Government or for cause.
<b>TIN</b>	Tax Identification Number issued by the IRS. Can refer to either the Employer Identification Number or the Social Security Number.
<b>Unauthorized Usage</b>	Use of outleased space for purposes not approved by the owner.

